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Working Group on Contemporary
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Fifteenth session
30 July-3 August 1990
Items 4 and 5 of the provisional agenda

ERADICATION OF THE EXPLOITATION OF CHILD LABOUR AND OF DEBT BONDAGE

REVIEW OF DEVELOPMENTS IN OTHER FIELDS OF CONTEMPORARY FORMS OF SLAVERY

Information submitted by Governments, United Nations organs, specialized agencies and intergovernmental organizations

Note by the Secretary-General

Addendum

The present document contains information submitted by the Government of the Netherlands.

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NETHERLANDS

[5 June 1990]
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General policy

1. Since 1874 the Netherlands has adopted legislation to prohibit child labour. Legislation with regard to child labour which is also linked to compulsory education is laid down in the Labour Act, the Safety Act, and the Compulsory Education Act.

2. Policy on child labour focuses on all children below the age of 18. In principle labour is prohibited for children who are of school age. There are some exceptions, because some work is allowed outside school hours. These exceptions are listed below and are in conformity with the provisions of ILO Convention No. 138, to which the Netherlands is a party. Legal rules and conditions are formulated in such a way that abuse of children through labour is prevented. Of great importance in upholding legislation in this respect is the task of the Labour Inspection, which has to see to the implementation of the provisions of the Labour Act. An active policy has been developed with regard to inspection of especially hazardous activities in which children might be involved through summer jobs. In the vacation period of 1989, different regional units of the Labour Inspection have held 360 inspections on child labour, especially in the food business. It appeared from the report of the Labour Inspection that the number of children below 15 years of age which were working in this sector was almost nil.

3. In order to facilitate the work of the Labour Inspection the head or administration of a business is under the obligation of employing only the young who are in possession of a labour-identity card issued by the Burgomaster of the city in which they reside.

Legislation with regard to child labour

4. It is laid down in article 9, paragraph 1, of the 1919 Labour Act that a child may not work. A child is defined as follows (article 8):

(a) A person for whom compulsory education in accordance with article 2 of the 1969 Compulsory Education Act (Bulletin of Acts, Orders and Decrees 1968, 303) has not commenced or has not yet terminated;

(b) A person granted exemption from the obligation laid down in article 2 of the 1969 Compulsory Education Act on the grounds of articles 5 or 15;

(c) A person less than 16 years old who is resident abroad.

5. With the exception of the provision under 3, the definition of the concept of child is completely linked to article 2 of the 1969 Compulsory Education Act, on which the following comments can be made. Under article 3,

paragraph 1, compulsory education commences on 1 August of the year in which a minor reaches the age of five and compulsory education terminates:

(a) At the end of the school year in which the minor has attended one or more schools for a minimum of 12 years; or

(b) At the end of the school year in which the minor reaches the age of 16.

6. Paragraph 3 of article 3 also lays down that the registration of a pupil at school during the last school year may be replaced by registration as a pupil at an educational establishment as referred to in article 2 (a) of the Act, although certain conditions have to be met.

7. The prohibition on child labour does not apply to the cases listed in article 9, paragraph 2, of the Labour Act:

(a) Light work done by a child aged 15 or over during the school holidays;

(b) Light work performed between 7.00 and 18.00 hours by pupils aged 15 or older attending a secondary school or a special school, in so far as this work is part of the school syllabus;

(c) Light non-industrial work performed by a child aged 15 or over which comprises assistance in performances of a cultural, scientific, educational or artistic nature, fashion shows, recordings for films, radio, television and records or radio or television broadcasts in so far as this work is not performed during school hours;

(d) Light work in agriculture and in shops which are combined with living premises, if this work is carried out by the children or children by marriage or foster or adopted children aged 13 or older of the head or manager of the enterprise and who live with him on the premises. This work may not be performed during school hours; it may only be done occasionally and for periods of no longer than two hours a day on school days and a maximum of five hours a day on other days;

(e) Work done by a child aged 15 or older which involves delivering newspapers, provided this work is not performed during school hours nor on Sunday, does not take longer than two hours a day and is not carried out between 19.00 hours and 6.00 hours.

8. Written exemption from the prohibition on child labour is granted under article 9 (a) of the Labour Act by the district head of the Labour Inspectorate:

(a) For light work performed by a child who under article 3, paragraph 3, of the 1969 Compulsory Education Act is registered as a pupil at an educational establishment; such exemption is only granted if it is considered to be in the child's interests;

READEX FICHE

(b) Exemption may only be granted to a child aged 16 or older under articles 5 and 15 of the 1969 Compulsory Education Act if it is considered to be in the interest of the child.

9. In special cases the district head may grant exemption in writing from the prohibition on child labour as laid down in article 9, paragraph 1, in respect of light non-industrial work comprising participation in performances of a cultural, scientific, educational or artistic nature, fashion shows, recordings for film, radio, television and records and radio and television broadcasts and similar light non-industrial work in so far as this work is not performed during school hours. Policy on the granting of exemption is restrictive.

10. Finally, there is the possibility of the Minister granting exemption from the ban on child labour for certain kinds of light work designated by him, to be performed by children aged 15 or older outside school hours. The Minister made use of this opportunity in an Order of 11 December 1980, 92019 (Government Gazette no. 1981, 17) which permits children aged 15 or older to perform light work outside school hours on Saturdays in shops, or light domestic work in nursing establishments or homes for the elderly.

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Note by the Secretary-General

Addendum

The present document contains information submitted by the Government of Venezuela.

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VENEZUELA

[8 June 1990]
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1. Ensuring the full effectiveness of the fundamental rights of the human being is a major concern in the modern world. The protection provided by international instruments is especially important in the case of safeguards for the rights of children. The instruments condemn any action by the State or private persons that impairs the child's normal development, or treats the child as an object stripped of human dignity. Venezuela accords a special place to children, who are the beneficiaries of a variety of protective measures.

2. In this report we briefly analyse Venezuelan legislation to guarantee compliance with the principle of protection to safeguard the fundamental rights of the child.

3. We will also briefly mention the practical problems faced by Venezuela under each head in order to determine whether the legislation is in keeping with the actual situation.

I. PREVENTION OF THE SALE OF CHILDREN

4. The sale of children is completely foreign to the history and culture of our people and is therefore understandably not formally defined as a crime. Although not explicitly prohibited, the sale of children is undoubtedly unlawful, as can be seen from the analysis of the legislation in force, including the Constitution, which forms the core of this report.

5. Child prostitution and the use of children for pornographic purposes are the subject of explicit provisions, as well as the laws concerning the prostitution of others, both of which are analysed below.

A. Legislation

6. We begin with the Constitution as the supreme law on which the rest of our legislation is based.

7. Article 74 of the Constitution states:

> "Motherhood shall be protected, regardless of the civil status of the mother. Necessary measures shall be enacted to assure the full protection of every child, without discrimination, from his conception until he is full grown, in favourable material and moral conditions."

8. In this connection attention should be drawn to the breadth of the protection accorded, which begins with conception and ends when the child is fully grown.

9. Article 75 states:

> "The law shall provide appropriate measures to enable every child, regardless of his filiation, to know his parents so that the latter may

fulfil their duty of aiding, nourishing and educating their children, and so that children and young people may be protected against desertion, exploitation or abuse."

10. Attention should be drawn first to the legislator's intention that the child should maintain his family ties and grow to maturity with the upbringing and assistance with which his parents are to provide him.

11. Second, it should be noted that the Constitution bars any situation contrary to the minor's interests.

12. Despite the absence of an explicit provision to that effect, the constitutional provisions, interpreted as integral parts of the Constitution's doctrinal system, prohibit the sale of children. Despicable in itself, sale puts in jeopardy the child's full development and is an act of exploitation and an abuse which removes the child from the family, the natural unit in which to grow up. Seen in the light of the principles underlying the doctrinal articles of the Constitution, it violates the spirit of article 43, as an unwarranted limitation of the personality that treats the child as an object, and is repugnant to the entire constitutional system.

13. Turning to other legal provisions, attention should be drawn to the Minors' Protection Law and the Penal Code.

14. Article 1, paragraph 9 of the Minors' Protection Law provides that the State shall promote the conditions necessary to enable:

> "... the child to be protected within his family, from which he shall be separated only in cases where separation is necessary to ensure his education or material, psychological or moral safety."

15. Under other provisions bodies such as INAM, the National Institute for Assistance to Minors, are established to ensure the discharge of the State's duties towards minors. Other provisions deal with the custody of minors and their physical and moral well-being. Any agreement purporting to alter them would be null and void.

16. The Penal Code does not define the sale of children as an offence, but deals with situations that are similar although not identical, such as the slave trade. Article 437 lays down penalties for the desertion of children under 12 years of age. This provision cannot be construed as covering the sale of children because the circumstances considered are different and because extension of the provision would modify the notion of desertion it embodies. The article provides:

> "Any person who deserts a child under 12 years of age or a person unable to care for his own health because of mental or physical infirmity, shall, if the child or person deserted was in the custody or care of the person committing the offence, be liable to imprisonment for 45 days to 15 months.
>
> "If desertion results in serious damage to the person or health of the child or person deserted or disturbance of his mental faculties, the prison term shall be 15 to 30 months, and 3 to 5 years if the offence results in death."

17. A very broad interpretation would be needed to stretch the scope of this article to cover the sale of children.

B. Situation in Venezuela

18. Generally speaking, Venezuela has not encountered problems in this area, since children are not used as articles of commerce. In 1989, however, a few incidents occurred that necessitated the adoption of preventive measures.

19. In the light of these incidents, there is reason to believe that trafficking in children was occurring in Maracaibo and Maturín and the national press reported that the authorities had received complaints concerning the sale of children.

20. Following the complaints, the Director of the PTJ, the Technical Judicial Police, ordered an immediate investigation but the inquiry has not yet produced conclusive results.

21. As a precautionary measure, the National Institute for Assistance to Minors has set up a social welfare office in the Concepción Palacios Maternity Hospital, to prevent irregularities. The hospital is the most important in the national capital with more births per day than any other.

22. It is hoped that the isolated incidents that have occurred recently will be brought under control through the adoption of appropriate precautionary measures.

II. PROSTITUTION OF CHILDREN, PROSTITUTION OF OTHERS AND SALE OF CHILDREN

A. Legislation

23. As was mentioned earlier, article 75 of the Constitution stipulates:

> "The law shall provide appropriate measures ... so that children and young people may be protected against desertion, exploitation or abuse."

24. The protection of minors against exploitation or abuse is enshrined in the Constitution, but the article leaves it to the law to develop the principle and ensure its observance.

25. The Penal Code stipulates:

> "Article 382 (single paragraph);
>
> "Any person who repeatedly or for purposes of profit and to satisfy the passions of another, induces, facilitates or favours the prostitution or corruption of any person, shall be liable to imprisonment for one to six years. If the victim of the offence is a minor, the penalty shall be not less than half of the maximum prescribed."

26. It will be noticed that the practice of prostitution is not an offence. The Penal Code provides for the punishment of anyone who "induces, facilitates or favours ..." prostitution. In other words, the offence punished is the sexual exploitation of another person.

27. It should be emphasized that the offence is aggravated if the person sexually exploited is under age. This flows from the protective principle enshrined in the Constitution and is concerned with the proper upbringing and protection of children.

28. Encouraging the prostitution of another person, through exploitation of the person's need for income or otherwise, is a violation of the person's physical and moral integrity. In the case of a minor, the offence exploits the minor's lack of judgement, and also impairs the minor's right to full physical, psychological and moral development. In such circumstances the penalty is heavier under Venezuelan criminal law.

29. The Minors' Protection Law regrettably does not in our opinion develop the principle contained in the Constitution, although the constitutional provisions are confirmed in article 1, which stipulates:

> "The purpose of this Law is to protect the minor's interests and establish his right to live in conditions permitting normal physical, moral and social development. To this end, the State shall promote the necessary means and conditions: ...
>
> (3) To ensure that neither his person nor his labour is exploited and that he is not subjected to moral or physical ill-treatment."

30. Article 84 provides:

> "The following may be deemed to be deserted minors: ...
>
> (7) Minors subjected to sexual exploitation."

31. Procedures have been laid down for the investigation of cases of this kind and other situations covered by the law and provision has been made for action by the authorities to safeguard the minor.

32. Although they make no explicit reference to sexual exploitation, paragraphs 6 and 7 of article 20 should be understood as covering the possibility that minors might be subjected to sexual exploitation and explicitly prohibiting it. The article reads as follows:

> Article 20: "It is prohibited:
>
> (6) To engage or accept the participation of young people under eighteen (18) years of age in public entertainments, films or rehearsals or radio or television programmes that might, depending on their age, affect their physical or mental health, impair their morals or endanger their lives.
>
> (7) To use young people under eighteen (18) years of age in film, radio or television commercials or in publications of any nature that commend depravity, bad habits, false values or lack of respect for human dignity."

33. The constitutional principle of protection of children and young people is thus developed in very straightforward terms in the Minors' Protection Law.

B. Situation in Venezuela

34. It should be mentioned that many young people in Venezuela live in households below the poverty line. A great many children and adolescents are consequently forced to go on the streets at a very early age to increase their families' scanty incomes, reflecting the household's low level of education and skills.

35. In the circumstances action is urgently needed to rescue hundreds of Venezuelan children and young people from the streets before they become the victims of one or other of these offences.

III. ELIMINATION OF CHILD LABOUR AND DEBT BONDAGE

36. Under the Venezuelan Constitution (article 93), the State is under a duty to provide for the protection of working women and persons under age. The Constitution thus enshrines one expression of the protective principle of labour law.

37. For physiological reasons workers in these categories cannot be treated in the same way as the rest of the working population.

38. In the case of women, maternity justifies the differential treatment, while in the case of minors, it derives from the social duty to guarantee their physical development, by ensuring that premature exploitation of their energies does not prevent their normal development; their psychological and moral development, by providing them with time for rest, amusement and recreation; and their education, as an integral process, that will not be cut short by employment.

39. With these goals in mind, broad measures have been taken internationally to set a minimum age for beginning work. Historically these efforts are embodied in various ILO international conventions and recommendations: Convention No. 5, Minimum Age (Industry) Convention, 1919; Convention No. 60, Minimum Age (Non-Industrial Employment) (Revised), 1937; Convention No. 33, Minimum Age (Non-Industrial Employment) Convention, 1932 (Revised 1937); Convention No. 138, Minimum Age Convention, 1973 and Recommendation No. 146, Minimum Age Recommendation, 1973, among others.

40. In Venezuela, however, it is not easy to determine the statutory minimum age for employment. The difficulty arises from the multiplicity of laws concerning minors in which there is no uniformity with regard to employment. The laws in question are the Employment Law, the Education Law, the Minors' Protection Law and Convention No. 138 concerning Minimum Age for Admission to Employment, ratified by Venezuela in 1984, published in Gaceta Oficial No. 3,323 on 18 January 1984.

41. As there is no uniformity in the age requirements in these laws, it is virtually impossible to name the required age in Venezuela without conflict with one or other of these laws.

42. For this reason, it is proposed to analyse each of the texts in the light of the social and economic problems of Venezuela and to set out the conclusions emerging from the analysis.

A. Elimination of child labour

1. Analysis of legislation

Legislation: Employment Law (1936)

(a) General principle

43. Chapter V of the Employment Law, "Employment of women and children", lays down what scholars refer to as a special employment régime.

44. The principle established in article 109 of the Law categorically prohibits the employment of boys and girls under 14.

45. The Law authorizes the employment of young people over 18 while young people between 14 and 18 need the authorization of their legal representative to obtain employment (Employment Law Regulations, art. 180). Acts in violation of this rule are contrary to public policy and therefore null and void since article 174 of the Regulations stipulates that children under 14 are "ineligible" for employment.

46. In accordance with the principle of protection, the article stipulates that if the rule is violated the employer is liable to the penalties prescribed by the Law, whereas the employed child retains his right to the wages and social benefits which would accrue to a person eligible for employment.

(b) Regulations of the general principle

47. Under the Employment Law and the regulations thereto the special régime governing the employment of minors does not apply to persons 18 years of age and over.

48. As noted earlier, the general principle is that children under 14 are considered ineligible for employment. The rule is relaxed for young persons between 14 and 18 who are covered by special regulations, the main provisions of which are as follows:

(a) The working day of young persons between 14 and 16 may not exceed six hours, divided into two three-hour periods with a break of at least two hours between them, except as provided in article 182 of the Regulations (Employment Law, art. 110);

(b) The working day may not begin earlier than 6 a.m. or end later than 7 p.m., except as provided by special regulations (Employment Law and regulations, art. 111);

(c) Overtime is prohibited on Sundays and holidays (Employment Law regulations, art. 186);

(d) Night-work is prohibited except as provided in article 188 of the regulations;

(e) Piece-work is prohibited; the wage must be fixed and readily calculated (Employment Law regulations, art. 195);

(f) No one under 18 years may work in places where there is a threat to life or health, where his normal physical development may be impaired or where his morals may be injured.

49. Apart from these limitations, additional benefits are provided such as: time off from work during school holidays; regular, free medical examinations (paid for by the employer); provision of a worker's identification booklet; physical examinations to determine fitness for work before being engaged, etc.

50. Although the system laid down in the Employment Law and the regulations thereto does not offer all the benefits that might be provided for young workers, its provisions are sufficient to ensure the initial protection of their fundamental rights.

51. It is conceivable that, in addition to achieving strict compliance with the established system, Venezuela might have to increase the minimum age of employment, which would not mean that this would resolve the problems of the country's working children.

52. It should be pointed out that the draft employment law does not introduce changes in the present regulations.

(i) Education Law (1980)

53. Article 2, paragraph 3 of Convention No. 138 concerning the Minimum Age for Admission to Employment stipulates that the minimum age shall not be less than the age of completion of compulsory schooling. This age can be determined by reference to the Education Law.

54. As will be seen, the Law is important for the purposes of determining the average age of completion of compulsory schooling and ascertaining whether article 2, paragraph 3 of the Convention has been complied with.

55. Under article 9 of the Law completion of pre-school and primary school is compulsory.

56. As the average age of admission to pre-school is four years and pre-school lasts two to three years, a child's age on completion is about six or seven. The child then enters primary school.

57. Under article 21 of the Law, primary school lasts for at least nine years. If a child completes pre-school at six or seven and immediately enters primary school, the age of completion of compulsory schooling is 15 or 16. This is therefore the minimum age stipulated by Convention No. 138.

(ii) Convention No. 138 concerning Minimum Age for Admission to Employment (1973)

58. It is important to note that in our view Convention No. 138 is the applicable legislation in the matter of minimum age of employment, since it specifically deals with the subject and was promulgated later.

59. On 18 January 1989 the Convention was ratified by a law published in Gaceta Oficial Extraordinaira No. 3,326 of the same date. It is therefore a domestic law applicable on the same footing as the Minors' Protection Law and the Education Law, the most recent on this subject.

60. Article 2, paragraph 3 of Convention No. 138 reads:

> "3. The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years."

61. In Venezuela, according to the Education Law, the law governing the subject, compulsory schooling ends at 15 or 16 years of age. Our legislation is thus consistent with article 2, paragraph 3 of the Convention.

62. The Convention also states (art. 2, para. 1) that no one under that age shall be admitted to employment or work in any occupation.

63. Article 3, paragraph 1 of the Convention stipulates:

> "The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years."

64. This provision is consonant with Venezuelan labour law.

(iii) Minors' Protection Law (1980)

65. The Law provides for general protection in article 1, paragraph 3, which states:

> "Article 1. The purpose of this Law is to protect the minor's interests and establish his right to live in conditions permitting normal physical, psychological, moral and social development. To that end, the State shall promote the necessary means and conditions:
>
> (3) To ensure that neither his person nor his labour is exploited and that he is not subjected to moral or physical ill-treatment."

Chapter III of the Workers' Protection Regulations, contain detailed regulations, article 23 of which explicitly prohibits the employment of children under 14, except as provided in article 24.

66. The legislation also provides the following:

(a) It establishes 18 as the minimum age for admission to employment that might affect life, health or morality; this is in full conformity with Venezuelan labour law;

(b) It increases to 16 the minimum age for admission to employment in public entertainment, radio, television, films and advertising; in the regulations to the Employment Law the minimum age was 14;

(c) It modifies the times stipulated in the Employment Law for the beginning and end of the working day, which now runs from 7 a.m. to 6 p.m.;

(d) It stipulates that the working day may not exceed 6 hours a day, with a total of 30 hours a week and that minors may not work overtime;

(e) It reaffirms the requirement that a medical certificate must be produced for any minor seeking employment and that an annual physical examination is to be provided at the employer's expense;

(f) It provides that if a minor cannot continue working for health reasons, the costs of restoring his health must be borne by the employer, who must also provide him with a suitable job, if possible;

(g) It requires the employer to provide minors with facilities for continuing their studies, in keeping with the regulations to the Employment Law.

2. Problems specific to Venezuela

67. Until 1978 Venezuela was a country whose vigorous economic growth would permit the best possible conditions for children generally with special protection and care for young workers.

68. In practice the situation left much to be desired. Despite the initiatives of the National Institute for Assistance to Minors, the conditions of children received no attention. Today, the situation is no better. The economic crisis has lowered the living standards of Venezuelan families and the purchasing power of wages has been substantially eroded by the country's economic difficulties.

69. Every day more family members must go out to work to bolster the family income and cope with the strains of inflation.

70. This is the explanation for the number of young people under 18 going out to work - more than at any time during the oil boom - but the employment regulations must be strictly enforced to prevent the injustice and even danger that may result from the uncontrolled employment of children under age.

71. It is a question therefore of applying the existing machinery for supervision and control to enforce the law. We have to recognize that although Venezuelan families need to supplement their income, the provisions governing the employment of children and young persons must be respected.

3. Elimination of debt bondage

72. Venezuela has no problems regarding debt bondage. There are no legal regulations concerning debt bondage since it is not practised, even outside the law.

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The present document contains information submitted by the International Labour Office.

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Apartheid

Information on measures taken recently by the ILO concerning apartheid is contained in the memorandum on activities for the prevention of discrimination in employment and occupation, submitted by the ILO to the Sub-Commission at its forty-second session.

Child labour

Since the last ILO's report, the Minimum Age Convention, 1973 (No. 138), has been ratified by two other States (Guatemala: specified minimum age: 14 years; Sweden: specified minimum age: 15 years), bringing the total of ratifications to 39.

Developments with respect to specific situations in fields of concern to the Working Group

Brief descriptions are given below concerning developments in cases commented upon in 1990 by the Committee of Experts on the Application of Conventions and Recommendations. Copies of relevant comments are attached.

(a) Employment of Haitian workers on sugar-cane plantations in the Dominican Republic

The International Labour Office fielded a direct contacts mission to the Dominican Republic and Haiti in October 1988 at the request of the two Governments in order to examine the effect to be given to the recommendations made in 1983 by a Commission of Inquiry, appointed to examine the employment of Haitian workers on the sugar plantations of the Dominican Republic. In its observation addressed in 1989 to the Dominican Republic on the Abolition of Forced Labour Convention, 1957 (No. 105), the Committee of Experts took note of the report of the direct contacts mission and expressed the hope that the Government of the Dominican Republic would take every measure to ensure that the situation of agricultural workers in general and of those of foreign nationality in particular, responds increasingly to international labour Conventions it has ratified and that real progress would be made in the implementation of necessary measures for this purpose. In particular, the Committee of Experts requested the Government to take necessary measures in three areas: regularization of the status of Haitians who have lived and worked in the Dominican Republic for a given period of time and the issue of identity papers to persons born in the Dominican Republic; regularization of the hiring procedure and residence in the Dominican Republic of workers entering the country to work on the sugar-cane harvest; and protection by the competent authorities of the rights and freedoms of workers, including the prevention of round-ups of persons for work in plantations and the improvement in the application of labour legislation in plantations. At the International Labour Conference in June 1989 the Government requested ILO assistance in drawing up an agreement with Haiti concerning the migration of workers. The Conference trusted that any agreement drawn up with ILO assistance would particularly heed the comments of the supervisory bodies. The Conference also trusted that, whether or not such an agreement were concluded, the Government of the Dominican Republic would without delay take the measures necessary to give full effect to the comments made by the ILO supervisory bodies.

However, in its 1990 report, the Committee of Experts noted that a mission of representatives of the Director-General of the ILO which was to visit the Dominican Republic and Haiti in August 1989 to assist the Governments in the implementation of the measures requested by the supervisory bodies, was cancelled after the Government of the Dominican Republic expressed its disagreement with the orientation of the mission. The Committee noted that since then, and during the whole of the 1989-90 harvest, the Government has failed to take the measures requested by the Conference Committee for the ILO to be able to verify the situation and ascertain on the spot the improvements that have been promised but are still awaited. As regards the measures that, acording to the Government's report that was received before the Conference in 1989, were to have been taken in the near future to regularize the recruitment, employment and labour of foreigners resident in the country, the Government has supplied no report since the 1989 Conference on the provisions adopted.

The Committee expressed its extreme concern at the contradiction between the stated intentions of the Government and the absence of any information indicating that real progress has been achieved as regards the implementation of measures to ensure the observance of the Convention.

The Committee on the Application of Standards of the 77th International Labour Conference, June 1990, noted with grave concern the continued failure over several years to eliminate serious deficiencies in the application of the Abolition of Forced Labour Convention, 1957 (No. 65), by the Dominican Republic (as well as in the application of the Protection of Wages Convention, 1949 (No. 95)). [ILC Provisional Record, 77th session, Geneva, 1990, paragraph 109. The Committee seldom lists countries under the heading "Continued failure to implement". It has done so in the last 10 years only on three occasions concerning two countries. This shows that the Conference Committee has been particularly worried about the situation in the Dominican Republic concerning the application of Conventions Nos. 105 and 95.]

(b) Bonded labour in Bangladesh

The Committee of Experts noted in its 1990 observation under the Forced Labour Convention, 1930 (No. 29) the report of the Working Group on Contemporary Forms of Slavery on its fourteenth session which referred to information provided by the Anti-Slavery Society for the Protection of Human Rights concerning child labour related to debt bondage in the South Asian countries, set out in a report of the South Asian Seminar on Child Servitude held in June-July 1989. The Committee of Experts noted that this report refers in particular to children of under-privileged classes, who, because of their parents' debt bondage to local landlords or money-lenders have to take up work as domestic workers in private homes, in shops, in restaurants, in "biri" and tobacco factories and that their situation is described as one of exploitation and slavery. Recalling that under Article 25 of the Convention, the illegal exaction of forced or compulsory labour shall be punishable as a penal offence and the Government must ensure that penalties imposed by law are really adequate and strictly enforced, the Committee expressed the hope that the Government would provide detailed comments on the allegations and full information on measures adopted or contemplated to eradicate bonded labour in law and in practice.

(c) Bonded labour in Pakistan

In previous comments under the Forced Labour Convention, 1930 (No. 29), the Committee of Experts referred to the alleged use of bonded labour by contractors known as "Kharkars" in the construction of dams and irrigation canals. In its 1990 observation the Committee noted that the Government denies the existence of such camps and that it proposes to introduce a law in Parliament whereby exploitation of labour in all its forms, including bonded labour, shall be an offence punishable under the law. Referring to the above-mentioned information provided to the Working Group on Contemporary Forms of Slavery (see under (b) above), the Committee of Experts noted that the Report of the South Asian Seminar on Child Servitude indicated that in Pakistan large-scale exploitation of bonded labourers was to be found in the brick-making, carpet-weaving, fish-cleaning and packing, shoe-making, auto repair, agriculture, mining, quarrying and stone-crushing industries. Referring to the order of the Supreme Court of Pakistan of 18 September 1988 considering the brick-kiln bonded labourers, the Committee noted that the Bonded Labour Liberation Front of Pakistan estimated that about 20 million people, among them 7.5 million children, fell in the category of "bonded labourers" of which 2 million families alone were working in the brick kilns as virtual slaves. The Committee also noted the declaration of the observer of Pakistan to the Working Group on Contemporary Forms of Slavery that the Government was fully aware of the social ills of bonded labour and determined to root them out.

In its observation the Committee proceeded to a detailed analysis of the three decisions made by the Supreme Court of Pakistan on the Constitution case No. 1 of 1988 (in the matter of enforcement of fundamental rights regarding bonded labour in the brick-kiln industry): the order of 18 September 1988, which was not final; the interim order of 23 November 1988; and the Final Bench of 22 March 1989. The Committee expressed the hope that further to the Supreme Court orders, the necessary measures will be taken to eradicate forced or bonded labour in practice as well as in law, both in the brick-kiln industry and in other spheres of activity and that the Government will supply detailed information on the action taken or envisaged to this end, in particular on the following:

- measures taken towards the adoption of legislation to abolish the recovery of past peshgis and, more generally, to eradicate the bonded labour system and to provide for the rehabilitation of bonded labourers;

- implementation of the Supreme Court orders;

- details on follow-up action by the police, the Advocate-General, the courts and the labour inspection to enforce the prohibition of forced labour, including copies of the latest reports of the Pakistan Commission of Human Rights dealing with bonded labour.

(d) Slave labour in Brazil

In its 1990 observation under the Forced Labour Convention, 1930 (No. 29), the Committee of Experts referred to its previous comments concerning allegations of forced labour and debt bondage submitted by ICFTU and CLAT and to an agreement ("Termo de Compromisso") signed between the

Ministry of Labour, the Ministry of Reform and Agricultural Development, the National Confederation of Agriculture (CNA) and the National Confederation of Agricultural Workers (CONTAG) aiming to eradicate all forms of slave labour (trabalho escravo). The Committee noted the Government's information on the action by the labour inspectorate concerning denunciations of slave labour and on efforts to eliminate all forms of slave labour in rural areas and it requested the Government to continue to provide information on this matter including on the action taken as a result of the investigations made following denunciations of slave labour.

(e) Allegations of slavery in Sudan

The Committee of Experts in its 1990 observation under the Forced Labour Convention, 1930 (No. 29), referred to its previous comments where it noted allegations of capture and trade in slaves arising in the context of civil unrest in the country submitted by the Anti-Slavery Society for the Protection of Human Rights to the United Nations Sub-Commission on the Prevention of Discrimination and Protection of Minorities. The Committee noted that the Anti-Slavery Society had reached an understanding with the Government for a visit to the country to assess the validity of the allegations, and that the Anti-Slavery Society would report on a proposed mission to the Working Group of the Sub-Committee at its next session in August 1990. The Committee further noted that sections 311 to 313 of the 1923 Penal Code provide sanctions for the illegal exaction of forced labour. It requested the Government to provide full information on measures taken to apply sections 311 to 313 of the Penal Code, including details on the number of cases in which persons have been prosecuted and/or sentenced in recent years for exacting forced labour and on penalties imposed on those found guilty.

(f) Abolition of slavery in Mauritania

In its 1990 observation to the Mauritanian Government on the application of the Forced Labour Convention, 1930 (No. 29) the Committee, noting that no report had been received from the Government, repeated its previous observation expressing concern as to the abolition in practice of slavery in the country. It repeated its previous request that the Government supply detailed information on the measures taken or envisaged to implement in practice the decisions taken to abolish slavery.

(g) Child labour in Haiti

The Committee of Experts noted in its 1990 observation under the Forced Labour Convention, 1930 (No. 29) the report of the Working Group on Contemporary Forms of Slavery on its fourteenth session which referred to information submitted by the Minnesota Lawyers International Human Rights Committee concerning allegations of labour exploitation and abuse of children, known as "restavek", who work as domestics in conditions which are not unlike servitude. The Committee requested the Government to supply information on these allegations and on all measures taken to ensure observance of sections 341 to 355 of the Labour Code (which contain provisions for the protection of children employed as domestic servants and prohibit such employment of children below the age of 12), including data on the action of the Social Welfare and Research Institute, municipal authorities and the labour courts.

(h) Child labour in Thailand

In it 1990 observation under the Forced Labour Convention, 1930 (No. 29) the Committee, referring to its previous comments concerning child labour exploitation, considered that the information submitted by the Government on inspections carried out and action taken against employers for child abuse was somewhat limited in scope and the pecuniary sanctions applied not commensurate to the physical and moral harm incurred by the children in comparison with the benefits which an employer can expect to gain by using illegal child labour. The Committee recalled that under Article 25 of the Convention the Government must ensure that penalties imposed by law are really adequate and are strictly enforced. The Committee expressed the hope that the Government will provide fuller information on measures taken to ascertain that the Convention is applied in practice, including information on complaints of child abuse, on inspections carried out, prosecutions undertaken and penalties imposed and copies of court decisions.

Convention No. 29: Forced Labour, 1930

Observation 1990

Bangladesh (ratification: 1972)

1. Bonded labour. The Committee has taken note of the discussions in the Working Group on Contemporary Forms of Slavery of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities at its fourteenth session, 1989. The Committee notes that the Report of the Working Group (doc. E/CN.4/Sub.2/1989/39 of 28 August 1989) refers to information provided by the Anti-Slavery Society for the Protection of Human Rights concerning child labour related to debt bondage in the South Asian countries; this information is set out in the report of the South Asian Seminar on Child Servitude held in June-July 1989 and attended by representatives of non-governmental organizations from five countries. In relation to the situation in Bangladesh, the report refers in particular to children of underprivileged classes who, because of their parents' debt bondage to local landlords or money lenders, have to take up work as domestic workers in private homes, in shops, restaurants, in "biri" and tobacco factories, etc.; their situation is described as one of exploitation and slavery. Under the provisions of the labour law no children under 14 years can work for any employer under any circumstances and there are laws and constitutional provisions on child servitude but these were not implemented nor brought to the attention of the prublic and the exploiters seem to ignore all legislation protecting children against servitude.

The Committee recalls that under Article 25 of the Convention the illegal exaction of forced or compulsory labour shall be punishable as a penal offence and the Government must ensure that penalties imposed by law are really adequate and strictly enforced. The Committee hopes that the Government will provide detailed comments on the allegations referred to above as well as full information on any measures adopted or contemplated to eradicate bonded labour in law as well as in practice.

2. The Committee has taken note with interest of the activities of the Underprivileged Children's Education Programme (UCEP) established in 1972 with the help and co-operation of the Ministry of Manpower Development and Social Welfare, referred to in the ILO Conditions of Work Digest No. 7, 1/1988. The Committee hopes that the Government will provide information on any further measures taken for the release and rehabilitation of exploited children.

3. Legal restrictions on termination of employment. In comments made for a number of years the Committee noted that under the Essential Services (Maintenance) Act, No. LIII of 1952, it is an offence punishable with imprisonment for up to one year for any person in employment of whatever nature under the central Government to terminate his employment without the consent of his employer, notwithstanding any express or implied term in his contract providing for termination by notice (sections 2, 3 (1) (b) and explanation 2, and section 7 (1)). Pursuant to section 3 of the Act, these provisions may be extended to other classes of employment. Persons to whom the Act applies may also be ordered, subject to penal sanctions, not to leave specified areas (sections 4, 5 (c) and 7 (1)). Similar provisions are contained in the Essential Services (Second) Ordinance, No. XLI of 1958 (sections 3, 4 (a) and (b) and 5).

Referring to the explanations provided in paragraph 67 of its 1979 General Survey on the Abolition of Forced Labour, the Committee in its previous observation indicated that workers may be prevented from leaving their employment in emergency situations within the meaning of Article 2, paragraph 2 (d), of the Convention, i.e. any circumstance that would endanger the existence or the well-being of the whole or part of the population. However, restrictions under the essential services legislation referred to are not limited to such circumstances. The Committee also pointed out that, even regarding employment in essential services whose interruption would endanger the existence or the well-being of the whole or part of the population, there is no basis in the Convention for depriving workers of the right to terminate their employment by giving notice of reasonable length.

In view of the Government's repeated earlier indications that the Essential Services (Maintenance) Act, 1952 is not in operation and that no restriction has been imposed under section 3 of the Act, the Committee again expresses the hope that the Government will soon be in a position to indicate that the necessary action has been taken to repeal the Essential Services (Maintenance) Act, No. LIII of 1952, and to bring the Essential Services (Second) Ordinance, No. XLI of 1958, into conformity with the Convention.

Convention No. 29: Forced Labour, 1930

Direct request 1990

Bangladesh (ratification: 1972)

In previous comments, the Committee requested the Government to supply copies of the laws governing the armed forces, in particular in respect to the freedom of career members to leave the service on their own initiative after a reasonable time, either at specified intervals or by giving notice.

The Committee noted the Government's indication in its report for the period ending 30 June 1988 that like all other public servants armed forces personnel have the right to leave the service. The Committee requested the Government to supply copies of the relevant laws or regulations providing for the right of the armed forces personnel to leave the service. In the absence of these texts, the Committee again requests the Government to provide copies with its next report.

Convention No. 29: Forced Labour, 1930

Observation 1990

Brazil (ratification: 1957)

The Committee takes note of the Government's report. In previous comments, the Committee referred to the observations submitted by the International Confederation of Free Trade Unions (ICFTU) and the Latin American Central of Workers (CLAT), alleging the existence of forced labour and debt bondage in certain regions of Brazil. The Committee also took note of the Government's statement concerning the difficulties encountered in detecting, preventing and repressing labour law violations, due to the vast dimensions of the national territory and the difficulty of reaching certain regions. The Committee also noted the Government's efforts to fight against all forms of forced labour, and of the "Termo de Compromisso" agreement signed by the Ministry of Labour, the Ministry of Reform and Agricultural Development, the National Confederation of Agriculture (CNA) and the National Confederation of Agricultural Workers (CONTAG), aiming to eradicate all forms of slave labour (trabalho escravo).

The Committee notes with interest the information provided by the Government in its latest reports, to the effect that, thanks to joint action by the bodies that signed the "Termo de Compromisso" in 1986, the Labour Inspectorate was able to deal with a large number of denunciations of slave labour in various states of the country. The result of the investigations was submitted to the competent bodies with a view to establishing the penal responsibility of the offenders.

The Committee also notes that the Government is pursuing its efforts to eliminate all forms of slave labour in rural areas and has stepped up labour inspection in such areas to that end.

The Committee requests the Government to continue to provide information on this matter, including on the action taken as a result of the investigation referred to.

Convention No. 29: Forced Labour, 1930

Observation 1990

Haiti (ratification: 1958)

The Committee has noted the Government's report on the application of the Convention. The Committee also has taken note of a report on Children's Rights in Haiti, prepared by the Minnesota Lawyers International Human Rights Committee in February 1989 and submitted to the Working Group on Contemporary Forms of Slavery of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities in August 1989 by an observer of the International Human Rights Internship Programme. The report refers to the use of children as servants, known in Creole as "restavek" from the French "rester avec" or "to stay with". Many poor families are alleged to be selling their children to urban families to work as domestics in conditions which are not unlike servitude. The children were forced to work long hours, with little chance for bettering their conditions; many children were reported to have been physically or sexually abused. Some of the girls who were "sold" as domestics at a young age did not know their family name or where their families lived and, thus, were unable to return to their homes. Many of the children presently living in the streets of Port-of-Prince had fled restavek situations, preferring a life without shelter or food to a life of servitude and abuse. The practice of restavek was openly compared to slavery in Haiti.

In presenting the report, the observer also alleged that while there were exceptions, the restavek children were very rarely treated like adoptive members of the restavek family. Usually there was a clear distinction between a restavek family's natural children and the restavek child, with the restavek children taking orders from the other children. Restavek children were not fed the same food as the restavek family, worked long hours for no pay both inside and outside the home and often were not housed in the main dwelling, but in a separate shed or shade. Few were sent to school or otherwise educated. If a runaway was found by the restavek family, the child could be forced to return.

The Committee has noted these allegations. It also has taken note of sections 341 to 355 of the Labour Code of Haiti which contain detailed provisions of the protection of children employed as domestic servants and prohibit such employment of children below the age of 12.

The Committee hopes that the Government will supply information in answer to the allegations referred to above; in particular, the Government is requested to supply full particulars on all measures taken to ensure the observance of the provisions of sections 341 to 355 of the Labour Code, including data on the action of the Social Welfare and Research Institute (IBESR), municipal authorities and the Labour Courts.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

Convention No. 29: Forced Labour, 1930

Observation 1989

Mauritania (ratification: 1961)

The Committee notes the discussions in the Conference Committee in 1986 concerning the application of the Convention in Mauritania, and the information supplied by the Government in its report that was received in February 1989.

1. Call-up of labour. The Committee has noted in the comments it has been making for many years that Ordinance No. 62-101 of 26 April 1962 and Act No. 70-029 of 23 January 1970 confer very wide powers on the authorities to requisition persons outside the cases of emergency covered by Article 2, paragraph 2 (d), of the Convention. The Committee notes that the Government stated previously that it recognized the need to repeal the provisions that were not in conformity with the Convention, that it had drawn up a draft Labour Code in order to bring the legislation fully into conformity with the Convention and that the draft would be submitted for comments to the International Labour Office.

The Committee also notes the statement by the Government representative to the Conference Committee in 1986 that the necessary measures to give effect to the provisions of the Convention had been taken and it trusts that the Government will supply, in the near future, the texts that repeal or amend the provisions in question so as to make them compatible with Article 2 of the Convention.

2. Abolition of slavery. In its previous comments, the Committee referred to the Declaration of 5 July 1980 proclaiming the abolition of slavery and to Ordinance No. 81-234 of 9 November 1981 to abolish slavery. It noted that under the terms of the provisions of the Ordinance, the abolition of slavery would give rise to compensation for those having held titles, for which the procedure would be established by decree, and it noted that the Ordinance did not contain provisions imposing penal sanctions for the illegal exaction of forced labour. The Committee also noted the indications contained in a paper submitted to the United Nations Human Rights Commission (document E/CN.4/Sub.2/1984/23 of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities - 2.7.1984) according to which the absence of penalties and the non-adoption of the Decree under the Ordinance on compensation could lead masters to tell their slaves that they are still slaves, since the envisaged compensation has not been received by those entitled to it, namely the masters, who could not demand it due to the absence of the implementing Decree. The Committee also noted, from the information contained in the above report, circular No. 003 of 9 January 1981 (which invites judges and cadis (al-koudath) to respect the decision of 1980 and to remain in complete conformity with international and national law) and circular No. 108 of 8 May 1983 (once again prohibiting judges from taking decisions that are incompatible with the law and requesting governors to give notification of all breaches and irregularities coming to their knowledge).

The Committee notes the information supplied by the Government in its report and to the Conference Committee in 1986 to the effect that, by virtue of section 3 of the Labour Code, forced or compulsory labour is forbidden and punishable, under section 56 (a) of the Code, with penal sanctions, and that the practice of forced labour no longer exists in the country. It also notes that the Government is not planning to adopt the Decree mentioned in section 3 of Ordinance No. 81-234 regarding compensation, in view of the fact that it seemed wrong to provide compensation for an activity that has been declared illegal, and that the Government intends to delete this provision.

The Committee also notes the indications supplied by the Government in its reply to the United Nations Human Rights Commission (document E/CN.4/Sub.2/1987/27 of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities - 17.7.1987) according to which new circulars have been issued to the regional authorities of the country to reaffirm the conformity of Ordinance No. 81-234 with the sharia and to recall the penalties to which those violating the legislation on this matter are subject.

The Committee takes due note of the Government's indications that section 56 of the Labour Code makes the illegal exaction of forced labour punishable by penal sanctions. The Committee must, however, point out that these provisions have been in force since 1963, when the Labour Code was adopted, but that the practice of slavery has nevertheless persisted, and hence the Government considered it necessary to adopt the Ordinance of 1981 to abolish slavery. The Committee recalls, in this connection, that under the terms of Article 25 of the Convention, not only the illegal exaction of forced or compulsory labour shall be punishable as a penal offence, but that it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.

The Committee requests the Government to supply detailed information on the measures that have been taken or are envisaged to implement the decisions to abolish slavery, on the results already obtained and on the penalties imposed on persons who do not respect the provisions abolishing slavery. It requests the Government to supply copies of court decisions made in this regard and of the information supplied by governors, in accordance with circular No. 108 of 8 May 1983. It also requests the Government to supply a copy of the latter circular, of circular No. 003 of 9 January 1981 and of the circulars to which reference is made in the Government's reply, referred to above, to the Human Rights Commission.

The Committee also requests the Government to supply copies of any texts adopted either to repeal section 3 of Ordinance 81-234 on the compensation that is due, or to implement it, and to supply information on the measures that have been adopted to give effect to the Convention in both law and practice.

Convention No. 29: Forced Labour, 1930

Direct request 1989

Mauritania (ratification: 1961)

1. In its previous comments, the Committee, with reference to Ordinance No. 83-127 of 5 June 1983 to reorganize public and private property, noted, among other matters, that by virtue of section 6, legitimately acquired collective rights devolve on all persons who have either participated in the initial improvements, or contributed to the upkeep and use of the property. The Committee once again requests the Government to supply information on the practical effect given to the provisions of the Ordinance, and in particular to section 6, and to supply the texts of implementing Decree No. 84-009 of 19 January 1984. It also requests the Government to supply information on any measures that have been adopted to support action to abolish slavery.

2. The Committee notes, from the Government's reply to the United Nations Human Rights Commission (document E/CN.4/Sub.2/1987/27 of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities - 17.7.1987), that the Government has established several structures intended to integrate former slaves into the various sectors of social and economic life. The Committee notes, in particular, the "food for work" (FFW) programme which, according to the paper, is already in action in several regions of the country and under which, in 1987, depots were opened in the capital for the benefit of approximately 10,000 persons. The Committee requests the Government to supply detailed information on the organization of the FFW structure, and particularly on the conditions of recruitment and work, the projects undertaken, the number of persons concerned, etc.

3. In its previous direct request, the Committee referred to the provisions of Decree No. 8-286 of 31 October 1980, governing the application of Ordinance No. 80-174 of 22 July 1980 on the organization and conditions of service of the National Guard, and it requested the Government to indicate the criteria directing the choice of the administrative authorities in the acceptance or rejection of resignation requests and on the appeal procedures available against decisions to reject resignation requests. The Committee notes the information supplied by the Government May 1986 according to which new provisions have incorporated the National Guard into the army. It requests the Government to supply a copy of the conditions of service applicable to military personnel in the army and of the provisions incorporating the National Guard into the army.

4. With reference to its previous direct request concerning the provisions applicable to work performed by prisoners, the Committee notes Decree No. 70-152 of 23 May 1970 respecting the organization, administration and supervision of prison establishments and Decree No. 70-153 of the same date issuing the internal rules of prison establishments, of which the Government supplied copies in May 1986, indicating that it planned to amend these texts, in view of the fact that Decree No. 70-153 provides in Chapter II, section 2, for the possibility of the hiring out of prison labour to private individuals, which is contrary to the provisions of Article 2, paragraph 2, of the Convention.

5. The Committee notes the Government's intention with interest. It points out that Article 2, paragraph 2(c) of the Convention indeed requires prison labour to be carried out under the supervision and control of a public authority and forbids prisoners to be hired or placed at the disposal of private companies, both within and outside the prison. As the Committee explained in paragraphs 97 and 98 of 1979 General Survey on the Abolition of Forced Labour, the use of convicted persons by private employers would be compatible with the Convention only if it were subject to the consent of the prisoners concerned and to safeguards, particularly with regard to remuneration, social security, etc.

The Committee hopes that measures have been taken or are being taken, as the Government expressed the intention of doing, either to forbid prisoners being hired to or placed at the disposal of private individuals, companies or associations, or to ensure that the work of prisoners in the service of private individuals or associations is performed under the conditions of free work, that is, that it is subject to the consent of the prisoners concerned and to the existence of corresponding safeguards, particularly with regard to wages and social security. The Committee requests the Government to supply information on the measures that have been taken or are envisaged in this respect.

Convention No. 29: Forced Labour, 1930

Observation 1990

Pakistan (ratification: 1957)

The Committee notes the information provided by the Government in its report. The Committee also has taken note of the discussion that took place in the Conference Committee in 1989.

1. Bonded labour. In its previous comments the Committee referred to the alleged use of bonded labour by contractors known as "Kharkars" in the construction of dams and irrigation canals and noted in the Report to the Government of Pakistan submitted by an ILO Sectoral Review Mission (July-August 1986) a reference to the employment of illegally bonded children in "Kharkar" camps working at night in irrigation tunnels in remote rural areas. Recalling the Government's statement to the Conference Committee in 1987 that the Prime Minister's Five-Point Programme was committed to the complete elimination of all types of exploitation of labour, such as forced labour, the Committee requested the Government to supply detailed information on the actual measures taken or envisaged in this regard.

The Committee notes that in his statement to the Conference Committee in 1989 the Government representative denied the existence of any "Kharkar" camp as well as the existence of any bonded labour in the country. Similarly, in its report on the Convention, the Government states that no "Kharkar" camps are in the knowledge of the Government and no child labour is allowed to exist; in order to dispel the apprehension in this regard the Government proposes to introduce a law in the Parliament whereby exploitation of labour in all its forms, including bonded labour, shall be an offence punishable under the law. The draft Bill on abolition of bonded labour is under preparation.

The Committee notes these indications with interest. It has also taken note of the discussion in the Working Group on Contemporary Forms of Slavery of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities at its 14th Session which took place in August 1989.

The Committee notes that the Report of the Working Group (document E/CN.4/Sub.2/1989/39 of 28 August 1989) refers to information provided by the Anti-Slavery Society for the Protection of Human Rights concerning child labour related to debt bondage in the South Asian countries; this information is set out in the report of the South Asian Seminar on Child Servitude held in June-July 1989 and attended by representatives of non-governmental organizations from five countries; referring to Pakistan, the report indicated that large-scale exploitation of bonded labourers was to be found in brick-making, carpet-weaving, fish-cleaning and packing, shoe-making, bidi-making, auto-repair, agriculture, mining, quarrying and stone-crushing industries.

In a further report on the practice of bonded labour in Pakistan submitted to the Working Group, a representative of the Anti-Slavery Society referred to the brick-kiln labourers who are considered bonded labourers in a path-breaking order of the Pakistani Supreme Court of 18 September 1988. The representative, President of the Bhatta Mazdoor Mahaz (Brick Kiln Labourers'

Front) and of the Bonded Labour Liberation Front of Pakistan created after the adoption of the Supreme Court Order, estimated that about 20 million people, among them 7.5 million children, fell in the category of "bonded labourers", of which 2 million families alone were working at the brick kilns as virtual slaves. The majority of these people did not exist in the government records, neither in the census - hence no right to vote, nor in the national registration - hence no identity cards. A child born in a family of "Bhatta Mazdoor" (brick-kiln labourers) was forced to start working before he learned to play. His meagre work might help his family to repay the "Peshgi" (advance bonded money) which his father and forefathers had allegedly received from the Bhatta owner for their survival. Even a woman in her pregnancy and maternity period was bound to work to clear the "Peshgi". But the system was so devised that in spite of best efforts the labourer was unable to clear the "Peshgi", which kept on increasing. To recover the "Peshgi" the Bhatta owner got forced labour from the entire family, paying them only a nominal amount of money as subsistence allowance, which kept the labourer and his family alive on a sub-human level. If a labourer demanded his full wages or desired to quit the job, the owner would give him a severe beating and torture which might also extend to his wife and children. The abduction of womenfolk and putting the labourer in private confinement or implicating him in false criminal cases was not uncommon.

After the Supreme Court Order of 18 September 1988 identifying "Bhatta Mazdoors", as bonded labourers, thousands of families left the Bhatta for areas of their liking in search of better employment. The liberty afforded to brick-kiln workers by the decision of the Supreme Court provided a ray of hope to other bonded labourers working in carpet, fisheries, stone crushing, shoemaking, power loom, paper picking, agriculture, etc., who joined the Brick Kiln Labourers' Front in forming the "Bonded Labour Liberation Front of Pakistan" (BLLFP). The BLLFP has established branches throughout the country and is making sustained efforts to solve the problems of bonded labour and to rehabilitate the workers with its meagre resources. So far 3,000 agricultural labourers, 1,000 stone crushers, 500 from the carpet industry and 500 from power looms, fisheries and the paper picking industry had been released.

The BLLFP had already approached the Government for legislation to abolish the bonded labour system and to take immediate measures for the rehabilitation of bonded labourers.

The Committee has taken due note of these indications. It also notes with interest that during the discussion in the United Nations Working Group on Contemporary Forms of Slavery, the observer for Pakistan, referring to the existence of bonded labour in his country, declared that the Government was fully aware of these social ills and determined to root them out. He underlined the strong commitment by the new government to eliminate bonded labour in all its forms and stated that forced labour or "Kharkari" would not be allowed. He stressed that Pakistan was bound to conform to international labour standards and underlined that under article 11 of the Constitution slavery and all forms of forced labour and traffic in human beings are prohibited, as is child labour under the age of 14 years in any factory or mine or any other hazardous employment; the illegal hiring of child labour is punishable with strict penalties under the Children (Pledging of Labour) Act, 1933 and the Employment of Children Act - 26 of 1988. In cases of violation of the Constitution and the laws of the country the aggrieved had access to the judiciary, as shown in the Supreme Court of Pakistan judgement of 18 September 1988 on bonded labour in the brick-kiln industry.

The Committee has taken note of three decisions made by the Supreme Court of Pakistan on the Constitution Case No. 1 of 1988 (in the matter of enforcement of fundamental rights re: bonded labour in the brick-kiln industry): the Order dated 18 September 1988 which was not final, the interim Order of 23 November 1988 and the Final Bench Order of 22 March 1989. These provide, inter alia, the following:

(i) Peshgi. The peshgi system (advance bonded money) is to be discontinued forthwith, except that up to one week's estimated wages may be paid by the owner to the worker as advance against proper receipt. Past unreturned peshgis given to the labourers by brick-kiln owners, for the time being shall not be treated as void and irrecoverable. Labourers are legally bound to return all such peshgis, and the owners are authorised to recover the same by legal means but not through coercive methods or use of police. A maximum of Rs.5,000 per household granted to labourers by the owners in the past in the form of formal loans or grants for marriages, religious festivals, medical treatment and death ceremonies shall not be recoverable and shall be treated as donations; this concession shall only be available to those labourers who return and resume their work voluntarily. According to the Order dated 18 September 1988, the question whether recoveries of past peshgis would be abolished altogether and whether legislation should be made on the lines as done in India, was deferred for the time being for six months. This aspect was to be reviewed in the light of the working of the above arrangements.

(ii) Return to work. A notice/direction is to be issued to all the labourers to come for work and report to their respective Bhatta owners, who will give them assurances in writing that they will not use any coercive methods or use of police force to bring them back or to retain them. However, in case a labourer does not want to come back or, having returned, wants to leave his work in the Bhatta of an existing owner, or to get a job elsewhere in the Bhatta of another owner, he shall not be retained forcibly provided he, on application to be made to the concerned District Judge/Civil Judge, gets a certificate for the purpose.

(iii) Payment of wages and exclusion of intermediaries. Payment of wages shall be made to the labourers on a daily/weekly/fortnightly/monthly basis as agreed upon; no deductions are to be made for damage/losses to bricks caused on account of rain; the existing Jamadar/Jamadarni system is to cease forthwith, no payments on behalf of the labourers shall be made to them nor recoverable/adjustable. According to the Order dated 18 September 1988, the payment of wages was to be made in cash and a receipt issued in duplicate - one to be retained by each side.

(iv) Use of force against workers' family members. The owners shall not directly or indirectly ask or pressurize any labourer for employing women or children. However, if the workers do so at their own risk, no complaint shall be made against the Bhatta owners on their behalf. "The head of the household who employs any of their womenfolk against her wishes and/or children might in proper cases be proceeded against."

(v) Reporting. According to the Order dated 18 September 1988, every case registered anywhere in Punjab by the police, which deals directly or indirectly with any of the constituents of the practice of bonded labour in the brick-kiln industry was to be reported to the Advocate-General with a FIR within 24 hours. The Advocate-General was to submit a photocopy of the FIR and other documents, if any, with his own comments, within a further 24 hours to the Supreme Court.

The Committee hopes that, further to the Supreme Court Orders on bonded labour in the brick-kiln industry, the necessary measures will be taken to eradicate forced and bonded labour in practice as well as in law both in the brick-kiln industry and in other spheres of activity, and that the Government will supply detailed indications on the action taken or envisaged to this end. In particular, the Committee looks forward to information on the following:

(a) Measures taken towards the adoption of legislation to abolish the recovery of past peshgis and, more generally, to eradicate the bonded labour system and to provide for the rehabilitation of bonded labourers both in the brick-kiln industry and elsewhere;

(b) The implementation of the Supreme Court Orders on bonded labour in the brick-kiln industry, including the following details:

(i) the application in practice of the requirement that workers wishing to leave their respective Bhatta owners must make an application to the District Judge/Civil Judge to get a certificate for the purpose, and the implications for the freedom of the workers concerned;

(ii) the situation in law and practice regarding the requirement, included in the Order of 18 September 1988 but omitted later, that wages be paid in cash and receipts issued in duplicate;

(iii) the situation in law and practice regarding the "proper cases" in which persons who employ women against their wishes and/or children are proceeded against;

(iv) enforcement measures, including copies of documents submitted to the Advocate-General and the Supreme Court in accordance with the reporting requirements laid down in the Order of 18 September 1988 but omitted later;

(c) Also details on subsequent follow-up action by the police, the Advocate-General, the courts and the labour inspection to enforce the prohibition of forced labour both in the brick-kiln industry and elsewhere, including copies of the latest reports of the Commission of Human Rights dealing with bonded labour.

2. Restrictions on termination of employment. The Pakistan Essential Services (Maintenance) Act 1952 and the West Pakistan Essential Services (Maintenance) Act 1958, have been the subject of comments by the Committee and of discussions at the Conference Committee for a considerable number of years. Under sections 2, 3(1)(b) and explanation 2 and section 7(1) of the Pakistan Essential Services (Maintenance) Act, it is an offence punishable

with imprisonment for up to one year for any person in employment of whatever nature under the central Government to terminate his employment without the consent of his employer, notwithstanding any express or implied term in his contract providing for termination by notice. Pursuant to section 3 of the same Act, these provisions may be extended to other classes of employment. Similar provisions are contained in the West Pakistan Act as regards persons in employment under the West Pakistan Government or any agency set up by it or a local authority or any service relating to transport or civil defence.

The Committee has noted with interest the Government's indication to the Conference Committee in 1989 that the Government has decided to meet the requirements of the Convention by amending the Pakistan Essential Services (Maintenance) Act 1952, so that an employee of an establishment covered under the Act may terminate his employment in accordance with the express or implied terms of the contract of employment and that the proposed amendment was to be submitted to the National Assembly. The Committee notes the Government's indication in its latest report that the Act is being so amended. The Committee firmly hopes that the necessary measures will soon be adopted to bring the Pakistan Essential Services (Maintenance) Act 1952, as well as the West Pakistan Essential Services (Maintenance) Act, 1958, into conformity with the Convention, and that the Government will indicate the action taken.

[The Government is asked to supply full particulars to the Conference at its 77th Session and to report in detail for the period ending 30 June 1990.]

Convention No. 29: Forced Labour, 1930

Direct request 1990

Pakistan (ratification: 1957)

The Committee has been requesting the Government since 1981 to supply information on the terms of service of career military personnel, in particular with regard to terms of enlistment and the conditions for resigning from active service. The Committee noted the Government's statement in its report for the period ending 30 June 1987 that it considers the military service, being a voluntary one, not to be covered by the Convention. Referring to the explanations given in paragraphs 33, and 67 to 73 of its 1979 General Survey on the Abolition of Forced Labour, as well as in point 1 of its observation under the Convention, the Committee recalls that even where employment is originally the result of a freely concluded agreement, the worker's right to free choice of employment remains inalienable, so that he must have the possibility of leaving the service in peacetime within a reasonable period.

In its latest report, the Government adds that military personnel, apart from being voluntary employees, do not fall within the definition of industrial workers and therefore are not covered by any labour law. The Committee observes that the protection of the Convention is not limited to industrial workers but extends to all persons.

The Committee expresses the hope that the Government will supply in its next report detailed information on service in the armed forces, including copies of laws and regulations governing the terms of service, in particular regarding the terms of enlistment and the conditions for resigning from the service.

Convention No. 29: Forced Labour, 1930

Observation 1990

Sudan (ratification: 1957)

Article 25 of the Convention. In previous comments the Committee took note of information received by the United Nations Sub-Commission on the Prevention of Discrimination and Protection of Minorities in 1988 from the Anti-Slavery Society for the Protection of Human Rights (United Nations document E/CN.4/Sub.2/AC.2/1988/7/Add.1) concerning allegations of capture and trade in slaves arising in the context of civil unrest in the country. The Committee requested the Government to supply detailed comments on these allegations, and to indicate all measures taken to ensure that penalties imposed by law for the exaction of forced labour are really adequate and are strictly enforced.

The Committee notes the discussion which took place in the 1989 Conference Committee, the most recent report of the Government, and further information received by the United Nations Sub-Commission on the Prevention of Discrimination and Protection of Minorities in 1988 and 1989 (United Nations documents E/CN.4/Sub.2/1988/32 and E/CN.4/Sub.2/1989/39).

According to this information, the Anti-Slavery Society reached an understanding with the Government for a visit to the country in order to have available in 1989 more precise information. In August 1989 the Anti-Slavery Society reported to the Sub-Commission that in December 1988 agreement was reached with the Ministry of Foreign Affairs, the Attorney-General's Office and the Ministry of Justice that a mission was to be organized by the Society to visit the Sudan in order to objectively assess the validity of allegations of slavery-like practices in the country. It was also reported that subsequent political developments had not yet made it possible for such a mission to be organized, but the Anti-Slavery Society remained in contact with government officials and hoped to be in a position to report on a proposed mission to the Working Group of the Sub-Commission at its next session in August 1990.

A representative of the Government, in comments to the Conference Committee in June 1989, stated that national legislation prohibited any form of exploitation or forced labour. The Government was committed to international instruments on the prevention of slavery and the slave trade, and Sudan had been among the first African countries to ratify the United Nations Convention on the abolition of slavery.

The Committee notes the Government's indication in its report that sections 311-313 of the 1983 Penal Code provide sanctions for exaction of forced labour. Under section 311 whoever unlawfully compels any person to labour against the will of that person, shall be punished with whipping or fine or with imprisonment. Under section 312 whoever kidnaps or abducts any person with intent that such person may be unlawfully compelled to labour against the will of that person, shall be punished with whipping or fine and imprisonment for one year. Under section 313 whoever for money or money's

worth, transfers or purports to transfer the possession or control of any person to another with intent to enable such other person to confine such person unlawfully or to compel him unlawfully to labour against his will, shall be punished with whipping and fine and imprisonment.

The Committee asks the Government to provide full information on measures taken to apply sections 311-313 of the Penal Code, including details on the number of cases in which persons have been prosecuted and/or sentenced in recent years for exacting forced labour and on the penalties imposed on those found guilty.

Convention No. 29: Forced Labour, 1930

Observation 1990

Thailand (ratification: 1969)

Article 25 of the Convention. In previous comments the Committee noted allegations brought before the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities that children were bought and sold in Thailand for work in private houses, restaurants, factories and brothels, that shops had specialized in the sale of children and teenagers and child catchers and recruiters were operating in the country, and that, although laws for the protection of children existed, there was a lack of enforcement by the police.

The Government stated in its earlier reports that since 1978 tougher action and measures had been undertaken by the authorities with a view to eliminating any possible exploitation or illegal use of child labour: labour inspections and remedial action had been intensified, vocational training, especially for children from rural areas had been promoted through a child rehabilitation centre and the foundation for the Promotion of Supplementary Occupations and Related Techniques, government agencies co-operated with private agencies and foundations in setting up a centre to monitor the problem of child labour and, in co-ordination with the Women and Child Division of the Department of Labour and the Police Department, to investigate cases; this action had resulted in several arrests and prosecutions; a factory owner had been sentenced to several years of imprisonment for illegal employment and abuse of child labour. The Government having provided only summary statistics on inspections, on the number of children in establishments covered by the inspections, on permits issued for the employment of children and on the advisory services to employers on legal aspects of child labour, the Committee requested the Government, in view of the serious and repeated allegations brought before the Sub-Commission and the Government's reference to several arrests and prosecutions, to supply more specific, detailed and complete information on the measures taken to ascertain that the Convention is observed in practice.

The Committee has noted the information provided by the Government in its report for the period ending 30 June 1987 and to the Conference Committee in 1987 on labour inspections and action taken by the Department of Labour in co-operation with the Police Department in a certain number of cases of child labour exploitation such as excessive hours of work - in some cases from 6 a.m. to midnight, with very little rest - illegal overtime and night work, no weekly rest, wages under the legal minimum, no protection or welfare benefits as provided by law, physical aggression, etc. The employers concerned have been sentenced or obliged to pay monetary penalties or outstanding wages; the Government has supplied the previously mentioned court decision sentencing an employer to three months' imprisonment. The Committee further notes the Government's indications concerning various rehabilitation measures and the role of the different aforementioned institutions. The Committee notes in particular that the centre to monitor the problem of child labour was replaced in February 1987 (Order of the Minister of Interior No. 84) by a joint committee of the private and public sector named "Child Labour Protection Committee", whose functions are among others to protect and eliminate the abuse of child labour and recommend ways and means to resolve

problems of child labour within and outside establishments, undertake study and research on the problem of the use of child labour within and outside the industrial sector. The Committee has also taken note of the research summary and recommendations of a report drafted by the National Youth Bureau, Office of the Prime Minister, referred to in the ILO Conditions of Work Digest, Vol. 7, 1/1988. Among its findings the report states that most employers do not have the required permit to employ children, who often work in illegal and unhealthy conditions, are deprived of protection or welfare benefits. The Committee also notes from the Digest the information reported by the Women and Child Labour Division according to which the majority of child workers are from poor families in rural areas; they are exploited and face many physical and mental problems.

While noting the information provided by the Government on the inspections carried out and action taken against employers for child abuse, it appears to the Committee from the documents submitted with the Government's report that these measures are somewhat limited in scope and the pecuniary sanctions applied not commensurate to the physical and moral harm incurred by the children in comparison with the benefits which an employer can expect to gain by using illegal child labour. The Committee recalls that under article 25 of the Convention the Government must ensure that penalties imposed by law are really adequate and are strictly enforced. The Committee recalls in this connection also that penalties should have a dual purpose, namely to severely punish the guilty and to act as a deterrent; if monetary penalties are provided for they should be adapted in order to ensure that they exert an effective influence. The Committee expresses the hope that the Government will provide fuller information on measures taken to ascertain that the Convention is applied in practice, including information on complaints of child abuse, on inspections carried out, prosecutions undertaken and penalties imposed, and copies of court decisions. The Committee requests in particular the Government to supply more detailed information on measures taken to ascertain that children are not sold and purchased by unscrupulous job-securing agents and to remove the children from night-spots and brothels and from illegal employment in private houses, hotels, restaurants and factories.

The Committee has noted with interest the information provided by the Government concerning rehabilitation measures. It addresses a request directly to the Government in this connection as well as on a certain number of other points.

[The Government is asked to supply full particulars to the Conference at its 77th session and to report in detail for the period ending 30 June 1990.]

Convention No. 29: Forced Labour, 1930

Direct request 1990

Thailand (ratification: 1969)

1. Referring also to its observation on the Convention, the Committee requests the Government to provide detailed information on the activities carried out, suggestions made and results achieved by the Committee for the Protection of Child Labour which is entrusted with the following

responsibilities: protect and eliminate the abuse of child labour; recommend ways and means to resolve problems of child labour within and outside establishments; undertake study and research on the problem of the use of child labour within and outside the industrial sector; recommend guidelines for the protection of and assistance to working children; promote and support the public and private agencies and organizations in the field of child labour; organize meetings, seminars and training on child labour at the national level; co-ordinate with other public and private agencies concerned with child labour; to set up any sub-committees as necessary for its work.

2. The Committee has noted the information supplied by the Government in its report concerning activities of the Department of Public Welfare entrusted with the protection against exploitation and maltreatment of children such as assisting the abused children and the children working under improper conditions and refer the exploited children to appropriate welfare institutions. The Committee hopes that the Government will continue to provide information in this regard, as well as on activities of various other bodies dealing with rehabilitation of children, in particular the Women and Child Division of the Department of Labour.

3. The Committee notes from the information provided by the Government to the Conference Committee in 1987 that in view of the number of establishments to be covered and for effective inspection of child labour a joint inspection system has been set up in 1984. The Committee requests the Government to provide detailed information on the inspections carried out and the results achieved through this joint structure, in particular to ascertain that children are not sold or purchased by job-securing agents, and to remove children from illegal employment and from night-spots and brothels.

4. In its previous comments the Committee referred to section 39 of the Local Administration Act, BE 2457 (1914) under which a Kamnan is empowered to requisition persons for compulsory service as guides, porters, etc., and which is therefore not in conformity with the Convention. The Government has indicated in 1978 that the legislation in question had no practical application and action had been initiated to repeal and revise it. The Committee notes the Government's indication in its latest report that a Kamnan supplying a voyager, during his official journey, food, vehicle, guide and porter, can reimburse any expense incurred from the per diem of that voyager and no person will be requisitioned for doing those services. The Committee consequently again expresses the hope that the Government will repeal the powers to impose compulsory service under this provision and thus bring legislation on this point into conformity with the Convention and the indicated practice.

5. In its previous comments the Committee also referred to sections 60, 96, 115, 117 and 118 of the Local Administration Act under which labour may be called upon, inter alia, for constructing dams, repairing canals, maintaining ways of communication by land or water. The Committee asked the Government to provide information on the practical application of these sections, specifying the nature of the aid which the inhabitants may be called upon to render under section 60, the various types of projects undertaken under sections 115 to 118, the number of persons and days of labour involved. The Committee notes the Government's information in its report according to which no details concerning services rendered are available but that voluntary services are offered only in case of emergency situations such as floods or other natural disasters.

The Committee refers to paragraphs 36 and 63 to 66 of its 1979 General Survey on the Abolition of Forced Labour where it stated that the concept of emergency involves a "sudden, unforeseen happening" calling for instant countermeasures, the duration and extent of compulsory service as well as the purpose for which it is used, should be limited to what is strictly required by the exigencies of the situation. The Committee requests the Government to provide information on measures taken or envisaged to clearly lay down in the legislation that the power to call up labour is limited to what is strictly required in order to cope with the circumstances endangering the existence or well-being of the whole or part of the population. The Committee looks forward to receiving information in this regard.

6. The Committee noted in its previous comment from the Government's report that while no legal provision regulates the work which may be done by the armed forces for the development of the country, under section 56 of the Constitution it is usual for the armed forces to be involved in community development works of construction, irrigation, clearing canals and digging wells to help people occasionally and in co-operation with the local people in the rural areas and that these works are done voluntarily.

The Committee has taken note of information according to which armed forces were forming two new development divisions to help economically deprived areas; among other objectives those divisions were designed to open up rural areas by improving communications and complement in general civilian development programmes, an important budget being allocated for the programme.

The Committee draws the Government's attention to article 2, paragraph 2 (a) of the Convention under which only military service limited to work of a purely military character is not included in the scope of the Convention. Work required from conscripts within the framework of the national service, including work connected with national development, is not of a purely military character. The Committee refers in this connection to paragraphs 24 to 33 and 49 to 62 of its 1979 General Survey on the Abolition of Forced Labour in which it examines the obligations resulting from the Convention on this subject and in which it describes the problems arising from the use of conscripts for non-military purposes. The Committee expresses the hope that the Government will indicate what measures are taken or envisaged to ensure that no compulsory military labour is used for work other than of a purely military character, including for development.

7. Referring to its previous request, the Committee notes the Government's statement in its report that members of the armed forces, like other State employees, are free to leave the service at any time; if such persons have received training for two years they can leave the service four years after the training. The Committee requests to the Government to provide copies of provisions governing such matters.

Convention No. 105: Abolition of Forced Labour, 1957

Observation 1990

Dominican Republic (ratification: 1958)

A. Employment in sugar-cane plantations

In comments made since 1984, the Committee has drawn attention to the need to take measures to ensure the observance of the Convention in sugar-cane plantations and to end the abuses committed against workers of Haitian origin, in accordance with the recommendations made in 1983 by the Commission of Inquiry set up to examine the observance of the Convention.

In October 1988, during a direct contacts mission to the Dominican Republic and Haiti undertaken at the request of the Governments of the two countries, the Government of the Dominican Republic reaffirmed its will to take every measure to ensure that the situation of agricultural workers in general, and of those of foreign nationality in particular, responds increasingly to the Conventions it has ratified.

In the observation that it made in 1989, the Committee hoped that this undertaking by the Government would make possible real progress in the implementation of the necessary measures to resolve the problems noted. The problems linked to the fact that workers of Haitian origin are not granted a legal status were particularly brought to light by the round-ups of persons living in the Dominican Republic, made with the assistance of police officers and military personnel in order to remedy the shortage of labour for the cane harvest. The problems were aggravated by renewed immigration that was both illegal and managed by the State Sugar Board (CEA). The persistence of the problems noted emphasized the urgent need for the Government to adopt the measures recommended by the Commission of Inquiry in 1983 and recalled since then by this Committee. Three groups of measures appear of priority importance:

1. The regularization of the status of Haitians who have lived and worked in the country for a given period of time and the issue of identity papers to persons born in the Dominican Republic (para. 527 of the report of the Commission of Inquiry). At the same time, economic promotion measures should make it possible to stabilize the labour force employed on plantations (para. 516).

2. The regularization of the hiring procedure and residence in the country of workers entering the country to work on the sugar-cane harvest (paras. 521 and 522). In so far as the entry of new workers into the country is recognized as being necessary to the operation of the economy, measures should be taken by the Dominican Government, either within the framework of an intergovernmental agreement or outside it, so that the process operates in an orderly manner and the workers concerned enjoy the necessary safeguards concerning their free choice of employment and their terms and conditions of employment and so that the role played by the armed forces in this context may be ended. These measures should include the following:

(a) the determination of the number of workers whose engagement by the various employers would be authorized;

(b) the establishment of placement offices at appropriate locations where such workers seeking employment in the Dominican Republic could be hired for the sugar-cane harvest, and be given a medical examination and issued with the necessary documents (residence and employment permits);

(c) the provision of clear information to the workers concerned on their terms and conditions of employment, by means of individual contracts of employment or a written statement (which should also be available in Creole);

(d) the transportation of the workers engaged to their places of employment.

3. Protection by the competent authorities of the rights and freedoms of workers. In this connection, the Government should take the necessary measures to:

(a) prevent by all the means at its disposal the recurrence of round-ups of persons for work in plantations and enforce the application of appropriate sanctions to those responsible for such cases;

(b) ensure that labour legislation is applied to sugar-cane workers, in accordance with Basic Principle III of the Labour Code, under which labour legislation is of a territorial nature and applies to citizens of the Dominican Republic and aliens without distinction; the Committee refers to its comments regarding the labour inspection services under Convention No. 95;

(c) in addition, to set up in "bateyes" of the CEA and in private plantations, civil administration structures such as exist in other population centres. This presence of the public authorities should ensure in a more permanent manner than is possible in real terms through the labour inspectorate the protection of the rights of workers and their families in plantations, since they will no longer be dependent in all the areas of their lives exclusively on the employer's administrators, assisted by the rural police force.

The Committee hoped that the Government would supply detailed information on the measures that it had taken to this effect.

In a report received before the Conference in 1989, the Government indicated that the national authorities were examining possible measures to be adopted in the near future to regularize the recruitment, employment and labour of aliens residing in the country, and particularly to restrict as much as possible the illegal trafficking of Haitian workers and their subsequent exploitation in inadequate living and working conditions. The Government also indicated that it had not been possible to achieve full "Dominicanization" of the harvesting operations in sugar plantations, despite the great efforts made to attract Dominican and resident Haitian agricultural workers and the measures taken to grant to the latter a legal and social status similar to that enjoyed by Dominicans. No further details have been provided regarding the measures stated to have been taken to grant to resident Haitian workers a legal status and even a status similar to that of Dominicans.

The Committee also notes the discussion held in the Conference Committee in 1989 concerning the application of Conventions Nos. 95 and 105 by the Dominican Republic. The Conference Committee, taking note of the direct

contacts which took place in October 1988, expressed its extreme concern over the situation of Haitian workers in the Dominican Republic. It stressed that there had been no progress, either in terms of legislation or practice, on essential points raised over a number of years by the Commission of Inquiry, the Committee of Experts and the Conference Committee. The Dominican Republic had requested ILO assistance in order to ensure the application of the Conventions in both its legislation and in practice. In this regard, the Conference Committee considered that special efforts were called for so that the ILO could, as from the 1989-90 harvest, verify the situation and ascertain on the spot the improvements that had been promised but were still awaited. The Conference Committee insisted upon the need for the Government to take the necessary measures, whose implementation should be verified in practice. The Conference Committee also noted that the Government had requested ILO assistance in drawing up an agreement with Haiti concerning the migration of workers. The Conference Committee trusted that any agreement drawn up with ILO assistance would particularly heed the comments of the supervisory bodies. The Conference Committee also trusted that, whether or not such an agreement were concluded, the Government of the Dominican Republic would without delay take the measures necessary to give full effect to the comments made by the ILO supervisory bodies.

A mission of representatives of the Director-General of the ILO was due to visit the Dominican Republic and Haiti in August 1989 to give effect to the request for assistance, as noted by the Conference Committee. This mission, whose mandate was to include the implementation of the measures requested by the supervisory bodies, was cancelled after the Government of the Dominican Republic expressed its disagreement with the orientation of the mission. The Committee notes that since then, and during the whole of the 1989-90 harvest, the Government has failed to take the measures requested by the Conference Committee for the ILO to be able to verify the situation and ascertain on the spot the improvements that have been promised but are still awaited. As regards the measures that, according to the Government's report that was received before the Conference in 1989, were to have been taken in the near future to regularize the recruitment, employment and labour of foreigners resident in the country, the Government has supplied no report since the 1989 Conference on the provisions adopted.

The Committee expresses its extreme concern at the contradiction between the stated intentions of the Government and the absence of any information indicating that real progress has been achieved as regards the implementation of measures to ensure the observance of the Convention.

B. Matters not related to plantations

Article 1 (c) of the Convention. The Committee referred in its previous comments to Act No. 3143 of 11 December 1951, as amended by Act No. 5225 of 1959, under which workers who have not completed their work on the agreed day or within the established time-limits, when they have been paid in advance for such work, are punishable by prison sentences involving compulsory labour.

The Committee notes the information supplied by the Government in its report received before the Conference in 1989 to the effect that Act No. 3143 has fallen into abeyance and that the authorities have envisaged repealing it. The Committee hopes that the Government will soon be able to report that this Act has been repealed.

Article 1 (d). With reference to sections 370, 373, 374, 378, paragraph 16, and 679, paragraph 3, of the Labour Code, under which sentences of imprisonment involving compulsory labour may be imposed for participation in strikes, to which the Committee has referred in previous comments, the Government indicated in its report received before the Conference in 1989 that the necessary steps had been taken to amend or repeal these sections. The Committee hopes that the provisions referred to will soon be amended or repealed so as to ensure the observance of the Convention on this point.

[The Government is asked to report in detail for the period ending 30 June 1990.]

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COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention of Discrimination
and Protection of Minorities
Working Group on Contemporary Forms
of Slavery
Fifteenth session
30 July-3 August 1990
Items 4 and 5 of the provisional agenda

ERADICATION OF THE EXPLOITATION OF CHILD LABOUR AND OF DEBT BONDAGE

REVIEW OF DEVELOPMENTS IN OTHER FIELDS OF CONTEMPORARY FORMS OF SLAVERY

Information received from non-governmental organizations

Note by the Secretary-General

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GE.90-12211/2027B

I. Introduction

1. By its decision 16 (LVI) of 17 May 1974, the Economic and Social Council authorized the Sub-Commission on Prevention of Discrimination and Protection of Minorities to establish a five-member working group to review developments in the field of the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism, the traffic in persons and the exploitation of the prostitution of others as defined in the Slavery Convention of 1926, the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 1956, and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949.

2. At its fortieth session, the Sub-Commission, by resolution 1988/31, approved the programme of work of the Working Group for the period 1989-1991. This programme of work (contained in chapter VI of the report of the Working Group on its thirteenth session (E/CN.4/Sub.2/1988/32)) included three main themes to be discussed in successive years: prevention of the sale of children, of prostitution of children and of the use of children in pornography (1989); eradication of the exploitation of child labour and of debt bondage (1990); and prevention of traffic in persons and of the exploitation of the prostitution of others (1991).

3. A letter dated 26 January 1990 was sent by the Secretary-General to the non-governmental organizations concerned, inviting them to submit information to the Working Group on Contemporary Forms of Slavery and drawing their attention to the main theme, the eradication of the exploitation of child labour and of debt bondage, to be singled out for discussion at the fifteenth session of the Working Group, in 1990.

4. By 15 May 1990, the following non-governmental organizations had submitted their communications: the Anti-Slavery Society, International Association of Lions Clubs, International Confederation of Free Trade Unions, International Federation Terre des Hommes, International Institute of Humanitarian Law, Inter-Parliamentary Union, Law Association for Asia and the Western Pacific, Socialist International Women, World Federation of Methodist Women, World Federation of Trade Unions, World Movement of Mothers and World Muslim Congress. A summary of substantial replies is reproduced below. */

5. Additional replies, if any, will be published in addenda to the present document.

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*/ The full texts of the replies received are available for consultation in the secretariat files.

II. Information received from non-governmental organizations

ANTI-SLAVERY SOCIETY

[10 May 1990]
[Original: English]

1. The Anti-Slavery Society for the Protection of Human Rights informed of its plans to follow up on work arising from the United Nations mission to Mauritania in January 1984 and the report on this subject (E/CN.4/Sub.2/1984/23). The tentative dates for the visit to Mauritania are 9 to 19 June 1990.

2. It was indicated that one of the objectives was to submit an update on the present situation in that country to the Working Group on Contemporary Forms of Slavery at its fifteenth session, in July and August 1990. Another was to see to what extent the Government and United Nations agencies have taken on board the recommendations of the expert's report.

INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS

[16 March 1990]
[Original: English]

The International Confederation of Free Trade Unions (ICFTU) referred to its 1986 report, entitled "Breaking Down the Wall of Silence - How to Combat Child Labour?" */ and indicated that it is part of an ICFTU ongoing world-wide campaign. It was pointed out that the policies and activities of ICFTU were further guided by the resolution on child labour adopted by the ICFTU World Congress in 1988. */ Reference was also made to the ICFTU periodical "Free Labour Review", and copies of some of the articles on child labour published therein were attached. */

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*/ Available for consultation in the secretariat files.

INTERNATIONAL FEDERATION TERRE DES HOMMES

[15 March 1990]
[Original: French]

1. The phenomenon of the exploitation of child labour is not limited to the developing countries, but is world-wide.

2. The International Fédération Terre des Hommes (FITDH) considers exploitation to exist whenever a child is:

(a) Underpaid or not paid at all;

(b) Made to perform tasks which place his physical and mental health and social development at risk;

(c) Made to work excessively long hours;

(d) Subjected to ill-treatment;

(e) Denied his fundamental rights.

3. There are estimated to be between 150 million and 200 million working children throughout the world. These figures are only approximate, as there is a shortage of reliable data on child labour, it being in many cases illegal or blatantly exploitative.

4. Child labour can take a number of forms:

(a) Domestic work in the home;

(b) Activities linked with agricultural work or participation in the family business;

(c) Bondage;

(d) Paid employment in agriculture, domestic service, industry or the services sector;

(e) Casual or temporary work;

(f) Illegal activities such as theft.

5. The causes of child labour are too numerous to be listed here. The most common are of course extreme poverty, adult unemployment and underdevelopment, which force children to accept employment in which they are more often than not exploited, in order to contribute to the family income.

6. The debt burden of the majority of developing countries is an aggravating factor in the exploitation of child labour. It is common knowledge that heavily indebted Governments have been forced to cut back spending on social welfare for deprived segments of their populations, thus leaving them destitute.

7. Added to this, in the 1980s, Official Development Assistance declined in both qualitative and quantitative terms. As a result, it was the poor countries and, within those countries, the most deprived population groups, which experienced a further deterioration in their already low standard of living, forcing them to draw on all possible sources of revenue.

8. Finally, uncontrolled urbanization leading to the breakdown of the family unit, with the mother being left to provide for the needs of her children on her own, and the vulnerability and malleability of the child labour force, which induces employers to use children in order to bring down their wage bills and remain competitive, are also factors which encourage the exploitation of child labour.

9. The exploitation of child labour means extremely difficult working conditions. Many children are very poorly paid, or not paid at all. Their working hours are long, in some cases excessively so (7 to 10 hours). They are made to perform dangerous work in unhealthy conditions. Underground work in mines is an obvious example, but there are also cases of children working in the agricultural sector who are exposed to dangerous machinery, are called on to make a continuous physical effort and come into contact with toxic chemicals. Working children are less capable of defending themselves than are adults, which is why they are also open to such forms of ill-treatment as being separated from their parents, being underfed and being deprived of social services.

10. The exploitation of child labour can jeopardize irreversibly the future of children who suffer physical or mental injury. Working from an early age also means that they have little opportunity to attend school and get an education. Recent research has shown that a large number of working children also attend school. However, the fatigue resulting from their regular employment prevents them from giving enough time to their studies, so that in general their level of scholastic achievement is low.

11. Finally, while child labour may be regarded as a way of alleviating family poverty, its macro-economic corollary is higher adult unemployment and persistently low wage levels for the labour force as a whole.

12. The members of FITDH are supporting a number of development projects, with a view to overcoming the phenomenon of child-labour exploitation on a limited scale.

13. In Haiti, many children, particularly girls, are taken from their original environment to work as servants in families, well off or otherwise, in the capital. Wage levels for domestic work are not laid down by Haitian law and thus depend on the whim and status of the employer. Wages may vary from 3 to 30 dollars per month. In some cases, children submit to working in exchange for a roof and a meagre food ration. They enjoy no social welfare services and no consideration is given to their status. A member of FITDH is supporting a project designed to provide children working as servants in Haiti with vocational training (handicrafts, dressmaking, livestock rearing or agriculture), as well as a centre where they can learn about their rights.

14. In Colombia, many children start to work at a very early age. They are accorded no respect, enjoy no social welfare services and have excessively long working hours, which prevents them from attending school. A member of

INTERNATIONAL LEAGUE FOR HUMAN RIGHTS

[3 August 1990]

[Original: English]

1. The International League for Human Rights seeks to draw the attention and that of the international human rights community to the continuing, rampant trafficking in children and their enslavement in South Asia. We ask the Working Group to recommend immediate action to prevent further injustice and exploitation in the region through trafficking in persons for economic and/or sexual slavery. We seek speedy action to aid the victims of these practices.

2. The overarching principle of the Convention on the Rights of the Child is that actions must be taken that are "in the best interests of the child". In a case of trafficking with which the League is particularly concerned, involving a Bangladeshi girl named Fatma, this principle was disregarded repeatedly, leading to the conclusion that almost every step taken was in fact in the worst interests of this child. We believe this must change.

3. Fatma is eight or nine years old. She has reportedly suffered a series of abuses, including abduction by traffickers who took her from Bangladesh into Pakistan illegally; enslavement by her captors, who reportedly beat and otherwise abused her; detention and imprisonment by the Pakistani authorities in a Karachi jail, where she was incarcerated for months with adult women and their children, reportedly without legal assistance; and her apparent release back to her captors following international publicity and intervention in the case.

4. Fatma is now missing. The Pakistani authorities claim they released her as a result of inquiries into her status and appeals for her well-being from attorneys and government officials who had learned of her case from a foreign radio journalist's interviews in a Karachi prison. Although an American attorney had found a foster home for the child until her parents could be located and she could be permitted to re-enter her native country, government officials report that Fatma was released in the meantime back to her abductor/captors in Pakistan. Subsequent efforts to locate the girl have been unsuccessful.

5. According to a May 1990 letter from a high-ranking official in the Ministry of Foreign Affairs, Fatma "might have been lured into Pakistan from Bangladesh by an infamous woman trafficker named Nashu Dalal. ... Soon after Fatma was interviewed by a Western mediaman, she was taken out of the jail through the influence of said Nashu Dalal and ... Nuru Majhi at Motimahal Rajput Colony, 3 Gulshan-e-iqbal, Karachi". Despite this, Fatma is missing. She cannot be found. The persons mentioned reportedly continue to "traffick" with impunity.

6. Pakistan is a party to the Slavery Convention of 1926 as amended, the Supplementary Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1956), and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949). Bangladesh is also party to them.

FITDH is supporting a project designed to protect such working children from being exploited. The project involves setting up a training centre where children and their families can learn a trade in school-workshops. A team of three teachers has drawn up a three-phase plan of action:

(a) Making contact with children in the street;

(b) Gradual introduction of children to the home-workshop;

(c) Setting up family workshops.

15. In Bolivia, the world tin crisis has resulted in an alarming combination of hyper-inflation and chronic recession. Many families have been affected by unemployment and are no longer able to provide for their children's needs. The economic crisis has also forced the Government to make severe cuts in funding for education and training. In La Paz, many children between the ages of 8 and 10 are compelled to find work in order to help to feed their families. A member of FITDH is supporting a project aimed at:

(a) Setting up training workshops for working children;

(b) Enhancing their personal development.

16. The initial phase involves setting up a workshop for some 30 underprivileged children with a view to providing them with immediately productive work. Training as a welder takes one year. Those who so wish can acquire a second specialized skill the following year.

17. In Dakar, Senegal, many children have to eke out a living in the streets. They have to fend for themselves by finding casual work as street vendors or by begging. They are subjected to repressive measures by the authorities. A member of FITDH is supporting a project designed to improve the currently negative image of street children by setting up a training and production workshop for:

(a) Production and repair of musical instruments;

(b) Production of badges and articles of clothing from fabric trimmings;

(c) Production of African toys.

18. The sale of the articles produced helps the children to provide for their own needs.

19. All of the above projects are on a small scale, but could be used as models for larger undertakings.

20. To conclude, the total elimination of child labour is an aim which there can be no hope of achieving except as part of an overall development effort and long-term action based on policies for promoting adult employment and improving living standards.

21. In the meantime, steps must be taken to improve the situation of working children, provide them with vocational training and protect them from exploitation. In this context, FITDH wishes to recommend that the Working Group on Contemporary Forms of Slavery should:

(a) Publicize the innovative measures taken by UNICEF, for example, to alleviate the debt-servicing burden of developing countries;

(b) Examine current legislation on the minimum working age for possible loopholes;

(c) Inform the public of the harmful effects of child labour and the dangerous conditions which they have to endure;

(d) Use all appropriate means to improve the status of women and their participation in non-domestic activities;

(e) Invite all States concerned to:

(i) Help the poorest population segments to organize with a view to improving their standard of living;

(ii) Strengthen the education system so as to make compulsory school attendance and the scholarship system a working reality;

(iii) Develop vocational training and introduce systems enabling children who have to work to combine their paid employment with school attendance or training.

INTER-PARLIAMENTARY UNION

[21 February 1990]
[Original: English]

1. The Inter-Parliamentary Union (IPU) indicated that the programme of work of the Working Group on Contemporary Forms of Slavery for 1990 related to two subjects dealt with by the Inter-Parliamentary Union in 1989.

2. As for eradication of the exploitation of child labour, the 81st Inter-Parliamentary Conference (Budapest, March 1989) adopted a resolution entitled the "Protection of the rights of children". In this text, the Conference, "concerned that children are ... exploited for the purposes of labour, prostitution or pornorgraphy", called on Parliaments "to improve the draft Convention so that minors, including children under the age of 18, are neither recruited into combatant armed forces nor recruited to take part in hostilities"; it urged also "all States to guarantee that children are protected against exploitation in the work force".

3. As far as debt bondage is concerned, reference was made to the resolution adopted by the IPU Centenary Conference (London, September 1989) entitled "The population and food equation and the search for rational and efficient solutions to the problem of Third World debt to ensure that the world can eat", and especially to the following paragraphs:

> "The 82nd Inter-Parliamentary Conference,
>
> ...
>
> Deplores the coercive measures ferquently applied by certain developed countries against Third World countries as a means of exerting political pressure, and which create a critical economic situation in the countries concerned;
>
> ...
>
> Acknowledges the urgency of reducing real interest rates and extending payment, grace and consolidation periods so as to alleviate the debt burden of developing countries, and stresses that the official debts of the least developed countries should be cancelled or partly converted into grants;
>
> ...
>
> Appeals to the Governments of the developed countries to accord exemption from debt repayment to countries suffering from famine and to show special appreciation to countries that have succeeded in meeting their international foreign debt obligations;
>
> ...

Urges all debtors and creditors to continue to seek, through dialogue and on the basis of shared responsibility, a lasting, fair and mutually agreed solution to the external indebtedness of developing countries;

...

Recommends to the Parliaments of countries represented in the IPU that they place the food question and the debt problem of developing countries on the agenda of their sessions".

THE LAW ASSOCIATION FOR ASIA AND THE PACIFIC

[23 February 1990]
[Original: English]

1. The Law Association for Asia and the Pacific (LAWASIA) indicated in its reply that the LAWASIA Human Rights Standing Committee had held three seminars on child labour and exploitation. They were:

(a) The Meeting of Experts on The Exploitation of the Child, held in Singapore on 12 and 13 November 1984;

(b) The Conference on Child Labour and Child Prostitution, held in Kuala Lumpur from 21 to 23 February 1986;

(c) The Seminar on the Exploitation of Child Workers, organized by LAWASIA and DCI, held in Lahore from 25 to 28 February 1988.

2. The papers presented at these seminars were all published by LAWASIA, and a publications list of the LAWASIA Human Rights Committee was enclosed.

3. LAWASIA also informed of its intention to send an observer mission to India in 1990 to look at bonded labour and child labour in that country.

SOCIALIST INTERNATIONAL WOMEN

[19 February 1990]
[Original: English]

The Socialist International Women (SIW) transmitted a brochure on the Fourteenth Triennial Conference of SIW, held in Stockholm in June 1989. */ The Action Programme adopted at that Conference provided in its section 3, entitled "The Sex Industry", that SIW should urgently debate the trade in pornography, prostitution, sex tourism and mail-order marriages. That provision of the Action Programme had been implemented when a statutory Bureau Meeting of SIW was held in Geneva on 22 November 1989 and discussed the theme: "Prevention of Sexual Exploitation - A Challenge for Action". The introductory speeches and the resolution adopted at that meeting were enclosed. */ Also enclosed was an article on child labour in India published in the SIW Bulletin. */

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*/ Available for consultation in the secretariat files.

WORLD FEDERATION OF METHODIST WOMEN

[7 March 1990]
[Original: English]

1. The World Federation of Methodist Women submitted the following statement on the question of slavery-like practices of apartheid and colonialism.

2. There are many aspects of apartheid that can be dealt with in detail ... the effects of the draconian system are of significance to millions of deprived South Africans. The mainstay of the apartheid system is the Population Registration Act of 1950, which labels a person from birth as belonging to one of four race groups, i.e. White, Coloured, Asian or African. For the white ruling class the system works very effectively; limited power and "privilege" are doled out to those who support the system, for whatever reason.

3. The Group Areas Act of 1956 delimits the country into racially divided areas. Every aspect of the lives of all South Africans is based on these two Acts. Legislation and practice have created a situation which perpetuates unequal socio-economic and educational opportunities, with limited economic advancement for those other than the privileged race group.

4. Notwithstanding the recent unbanning of the African National Congress and other political organizations, and the release of Dr. Nelson Mandela, the apartheid system is still intact.

5. Intrinsic in low socio-economic conditions is violence, and its manifestation is due to the poverty, unemployment, poor living conditions, cultural differences, frustration and deprivation inherent in the apartheid system.

6. Education: children and youths have been at the centre of much of the civil disobedience and unrest which have become an everyday aspect of our lives. To understand the special place that children have in this one must refer to the Bantu Education Act of 1953, which was designed to institutionalize administrative separation and is part of a blatant plan to ensure inequality of opportunity. Our children have had to pay a heavy price to oppose a system that would have them believe that they are inferior and created for inferiority, which is carried through to young adulthood and indeed adulthood, perpetuates the poor quality of employment, long working hours, low wages and salaries, low structures of employment which seldom reach managerial level, lack of incentives and perks, and above all keeps the economic wealth in the hands of the white population and ruling government.

7. Pupil/teacher ratios average approximately 18:1 for whites, 22:1 for Indians, 27:1 for "Coloureds" and 43:1 for Africans. There are eight "white" colleges superfluous to need and either vacant or being redesigned for use as government departments. The South African educational system is a premeditated assault on the rights of the child.

8. Although the challenges are daunting, the women of the Methodist Churches in South Africa, i.e. the Methodist Church of Southern Africa and the African Methodist Episcopal Church, have worked ceaselessly to help bring about positive change, reconciliation and peace, and continue to work to rebuild South Africa and Namibia. Despite limited funding and capital, various projects, such as the UBULUNGISA (Justice) Programme, have been supported and initiated, the most significant being the project LEGAL AID FOR CHILDREN IN CRISIS.

WORLD FEDERATION OF TRADE UNIONS

[5 April 1990]
[Original: English]

1. The World Federation of Trade Unions (WFTU) submitted the following statement.

2. WFTU fully supports the proposed programme of work of the Working Group on Contemporary Forms of Slavery for 1990, which covers all relevant fields of the Working Group mandate. To make the work of the Group more effective, we consider it useful to propose that the Group closely co-operate with the established international supervisory machinery within both the United Nations and the International Labour Organisation. The Convention on the Rights of the Child and the Convention on Migrant Workers are certainly an important source of international standards in this field.

3. Information from national trade union organizations could be of great use in assisting the Working Group to establish facts concerning respect or violation of international instruments relating to slavery in all its forms. Consequently, we propose that the Working Group seek contact and co-operation with the trade union organizations of the countries in which slavery occurs.

4. Trade union organizations also attach great importance to the eradication of apartheid. Our Federation is persuaded that the Working Group should proceed, in monitoring this issue, from the basic standpoint that apartheid cannot be reformed, as some advocate, but must be abolished once and for all. Instead of the apartheid régime, independent, a non-racial and non-fragmented State should be created, which is the only objective criterion for registering progress in this area.

5. The Working Group should also deal with the communications of individuals who have fallen victims to various forms of slavery and slavery-like practices.

WORLD MOVEMENT OF MOTHERS

[2 March 1990]
[Original: French]

1. The World Movement of Mothers submitted the following statement.

2. Among the facts reported by some of our member associations throughout the world, the following would seem to warrant special attention.

3. In Morocco, despite the fact that the law prohibits the employment of children under 12, children of 5 years of age are still working in carpet factories. They work an average of 12 hours a day non-stop, in appalling health conditions and, naturally, with no opportunity whatever of receiving the basic education to which they are entitled.

4. In Brazil, although the law prescribes an eight-hour working day, hundreds of thousands of children between the ages of 10 and 14 are kept at work for many more hours than that. Moreover, girls employed as servants are regarded as being permanently on duty.

5. Again in Brazil, other very young girls are employed as prostitutes in appalling conditions. Charnel houses have even been found containing piles of bodies of such young children who have died after being subjected to 80 "customers" a day.

6. In Greece, most of the child labour force is employed in agriculture, invariably in conditions detrimental to their health and personal development.

7. In the United States of America, the children of migrant farm workers, frequently Mexican, change domicile so often that continuous school attendance is virtually impossible. They also live in very unhealthy conditions. From the age of 10, they work in the fields, for still less pay than their parents, who themselves are paid less than the statutory national rate.

8. In France, children, often of Yugoslav immigrants, are trained by their parents to steal and taken by them to the most promising places. The parents wait nearby and, if the children return empty-handed, they are punished.

9. Not even the International Convention adopted last year will be able to assure these exploited children of a proper childhood unless we can get to grips with the underlying causes. Generally, it is when adults are prevented from earning a living that the children are exploited for still lower wages. People must be given an opportunity to live in dignity if the family is to be a force for, and the source of, social stability and the place where children can experience the affection and love which will enable them to grow into strong, healthy adults.

10. The World Movement of Mothers also submitted a bibliography on this topic.

UNITED
NATIONS

E

Economic and Social
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Sub-Commission on Prevention of
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of Minorities
Working Group on Contemporary
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Fifteenth session
30 July-3 August 1990
Items 4 and 5 of the provisional agenda

ERADICATION OF THE EXPLOITATION OF CHILD LABOUR AND OF DEBT BONDAGE

REVIEW OF DEVELOPMENTS IN OTHER FIELDS OF CONTEMPORARY FORMS OF SLAVERY

Information received from non-governmental organizations

Note by the Secretary-General

Addendum

The present document contains a summary of the communication received from the International Confederation of Free Trade Unions. */

*/ The full text of this communication is available for consultation in the files of the secretariat.

GE.90-12325/6624A

INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS

[18 May 1990]
[Original: ENGLISH]

The International Confederation of Free Trade Unions transmitted a report on child labour in Europe which had been prepared for a conference on that subject held in Helsingor, Denmark, from 26 to 28 January 1990, jointly organized by the Youth Committee of the European Trade Union Confederation (ETUC) and the International Falcon Movement/Socialist Education International (IFM-SEI). */ Also transmitted was a resolution adopted by the conference which was subsequently endorsed by the Executive Committee of the ETUC. */

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*/ Available for consultation in the secretariat files.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
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COMMISSION ON HUMAN RIGHTS
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Working Group on Contemporary
Forms of Slavery
Fifteenth session
30 July - 3 August 1990
Agenda items 4 and 5

ERADICATION OF THE EXPLOITATION OF CHILD LABOUR AND OF DEBT BONDAGE

REVIEW OF DEVELOPMENTS IN OTHER FIELDS OF CONTEMPORARY FORMS OF SLAVERY

Information received from non-governmental organizations

Note by the Secretary-General

Addendum

The present document contains a summary of the communication received from the International League for Human Rights. */

*/ The full text of this communication is available for consultation in the files of the secretariat.

GE.90-12631/4164a

7. These treaties call for the States parties to enact laws and take legal and practical measures to forbid slavery and institutions and practices similar to slavery. They all obligate the governments, inter alia, to punish the traffickers, and to protect and rehabilitate the victims of their abuses. The 1949 treaty calls upon the State to make "suitable provisions" for the "temporary care and maintenance" of the victims pending their repatriation, and, in the absence of a spouse, relative or guardian who can repay repatriation costs, obligates the receiving State to bear costs of repatriation to the border, and the native State to bear them from that point on.

8. We submit that in Fatma's case and cases of those incarcerated with her, the actions taken by authorities did not focus on punishing the traffickers and aiding and rehabilitating the victims, but rather did the opposite: they punished the victim(s) of trafficking. We are convinced that the victims should be helped. International law calls for the victims to be helped. So do common sense and human compassion.

9. The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, drafted and adopted first by the Sub-Commission, and approved by General Assembly resolution 43/173 of 9 December 1988, provides a series of legal and procedural guarantees for detained or imprisoned persons. Principle 16 details the rights of a detainee to notify or ask the authorities to notify family members of the arrest or detention; Principle 16 (2) specifies that if the detainee is a foreigner, "he shall also be promptly informed of his right to communicate by appropriate means with a consular post or the diplomatic mission". Principle 16 (3) calls for the "competent authority" to undertake such notification independently if the detainee is a juvenile.

10. To our knowledge, the Pakistani authorities took no such measures to aid young Fatma until international attention began to focus on her case because of the radio interview. Fatma was, apparently, imprisoned in Karachi and left there for a indeterminate period to await a court review in the badly backed up Pakistani legal system. There are many other such victims of trafficking who are detained in Pakistani jails.

11. We have learned from reports in the Pakistani press that, following the international inquiries about Fatma and press reports on the slavery and subequent detention of scores of Bengali women, the Pakistani Government has stated it would appoint a commission to monitor the "large-scale smuggling" of women into Pakistan, and to visit jails, collect information about the detainees, and make arrangements for their repatriation. (Dawn, Islamabad, 12 July, 1990). Such action, if carried out, would be a welcome ameliorative step to aid the women and child victims of such human trafficking.

12. As for other positive measures that could be taken, we recall that the Economic and Social Council, in resolution 1983/30 of 26 May 1983, recommended that States draw up policies aimed, inter alia, at: increasing the number of women among the State's personnel having direct contacts with the populations concerned; and facilitating ... the reabsorption into society of persons rescued.

13. The ECOSOC resolution also calls for close international co-operation of States in research and identification of "international networks" of traffickers and calls on them to work with INTERPOL (International Criminal Police Organization). Like other resolutions, it urges the establishment of a programme of education as well as greater monitoring of borders, particularly regarding children who cross borders, to prevent illegal entry. Both Bangladesh and Pakistan should co-operate to help end the scourge of trafficking that victimizes their citizens.

14. Further, the League recalls the recommendations of the 1988 Working Group on Slavery that "Governments be urged to pursue a policy of information, prevention, and rehabilitation of women victims of prostitution" and that "receiving countries provide protection to migrant women against exploitation in the form of prostitution and other slavery-like practices" and that both receiving and native-countries co-operate to this end.

15. The League calls on the countries in the region - Pakistan, Bangladesh, India and Nepal, in particular - to undertake such actions as a matter of priority - in Fatma's case and for the many other victims of human trafficking in the region. The case of Fatma and many similar ones highlight yet again the need for the development of effective mechanisms to ensure that Governments like Pakistan, which are party to the international treaties on slavery, will in fact adopt measures to end the practices, punish the criminal traffickers, and aid the victims. For too long the international community has allowed these guarantees to be flouted with little recourse and little concern.

16. We strongly urge the United Nations to establish an effective mechanism to monitor the Slavery Conventions and to review State party reporting on laws enacted and measures taken to deter trafficking and aid the victims, as called for under article 21 of the 1949 Convention on the Suppression of Trafficking in Persons.

17. The Sub-Commission on the Prevention of Discrimination and Protection of Minorities itself has recommended establishment of a system of continuous reporting on the legal, administrative, and practical situation in each country (c.f. resolutions 5 (XXIX), 6B (XXXI), 1984/33, and 1987/32). The Commission (resolutions 1989/35 and 1990/63) has asked the Secretary-General to invite States parties to submit regular reports to the Sub-Commission. In the latter resolution, it has urged the Sub-Commission to continue to debate ways and means of establishing an effective mechanism, and to elaborate recommendations on the topic at its current, forty-second session. The International League for Human Rights strongly urges recommendations and action along these lines.

18. Further, we call upon this Working Group to consult with Pakistan and to make country-specific recommendations for remedial action there in the case of Fatma and others lured into the country and enslaved. It should do the same for other countries where similar practices occur.

19. While we view the system of periodic reporting and annual review by the Working Group or similar body as a positive step, we are convinced that reporting alone will not constitute an effective mechanism. We need only note

the many problems facing the current system of country reporting under human rights treaties as identified in the report of Philip Alston to the General Assembly (A/44/668); any new system should take into account the need for consolidated reporting.

20. The League believes that any system of reporting under the slavery conventions should be supplemented by the appointment of a special representative empowered to visit the countries involved and to examine local institutions and mechanisms for combating the trafficking, punishing the perpetrators and rehabilitating and/or assisting the victims.

21. The Economic and Social Council recently received "an updated report" on steps taken by member States and others to implement recommendations of ECOSOC resolution 1983/30 on the suppression of the traffic in persons. (See United Nations document E/1990/33). In it, only six Governments provided information. One - the shortest reply - was from the Government of Pakistan, which stated that:

> "Under Article 11 (1) and (2) of the Constitution of Pakistan, 1973, slavery is already prohibited in Pakistan, that is:
>
> (a) Slavery is non-existent and forbidden and no law shall permit or facilitate its introduction into Pakistan in any form;
>
> (b) All forms of forced labour and traffic in human beings are prohibited."

22. Clearly, this very brief response is inadequate: abundant evidence reveals that despite legal prohibition, slavery - including economic and sexual slavery resulting from trafficking - continues in Pakistan. The United Nations needs a better mechanism with which to engage the Pakistani authorities in a discussion of its report and ameliorative measures that Pakistan and its neighbours could take. The United Nations needs to be able to examine conditions first hand, and to take the kinds of action that might lead us to find and aid young Fatma - and to prevent hundreds of others from becoming the next Fatma. Such action - by the Government of Pakistan and by the world community as represented by this distinguished body - would truly be "in the best interests of the child".

UNITED
NATIONS

E

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Fifteenth session
30 July - 3 August 1990
Item 5 of the provisional agenda

REVIEW OF DEVELOPMENTS IN OTHER FIELDS OF CONTEMPORARY FORMS OF SLAVERY

Information submitted by the International Criminal Police Organization (INTERPOL)

Note by the Secretary-General

1. In paragraph 6 of its resolution 1695 (LII) of 2 June 1972, entitled "Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism", the Economic and Social Council invited the International Criminal Police Organization (INTERPOL) to co-operate with the United Nations in its efforts to eliminate slavery, the slave trade and institutions and practices similar to slavery, and in particular to forward to the Secretary-General annually any information at its disposal with regard to the international traffic in persons, including reports on the subject received from its National Central Bureaux. In paragraph 7 of the resolution, the Council requested the Secretary-General to utilize such information to supplement information made available to him under the terms of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956 and Council resolution 1579 (L), entitled "Special arrangement for co-operation between the United Nations and INTERPOL", and to present a summary of available information to the Sub-Commission at each session.

2. The following communication dated 11 June 1990 has been received from INTERPOL.

3. The General Secretariat of the I.C.P.O.-Interpol sent out a circular letter to the National Central Bureaux and Sub-Bureaux of member States on 25 January 1990 requesting them to report any cases of slavery or similar practices which came to their notice during the year 1989.

4. As of 8 June 1990, the General Secretariat has received replies from the following countries and territories: Andorra, Argentina, Aruba, Australia, Austria, Bahamas, Bahrain, Barbados, Bermuda, Brunei, Cyprus, Denmark, Djibouti, Finland, France, Gibraltar, Greece, Hong Kong, Hungary, Iceland, Ireland, Kenya, Lesotho, Libya, Liechtenstein, Macao, Malawi, Malta, Netherlands, Norway, Pakistan, Papua New Guinea, Portugal, Saint Kitts and Nevis, Saudi Arabia, Senegal, Seychelles, Singapore, Sudan, Swaziland, Sweden, Switzerland, Syria, Trinidad and Tobago, Turkey, Uganda, United Kingdom, Venezuela, Yemen (Arab Republic), Zambia, Zimbabwe.

5. The answers of the above countries and territories were, without exception, in the negative.